

EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

- All Adult Care Evaluator Manual Holders
- All Child Care Evaluator Manual Holders
- All Children's Residential Care Evaluator Manual Holders
- All Residential Care for the Elderly Evaluator Manual Holders

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Reference Material for Complaints

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Amended text and graphics to support changes to the Complaint Report (LIC 802) form.

Index of Changes:

<i>Content Removed</i>	<i>Content Inserted</i>
1. Pages 19, 20, 23 through 28, and 31	1. Pages 19, 20, 23 through 28, and 31
2. Pages 60, and 62 through 65	2. Pages 60, and 62 through 65
3.	3.
4.	4.

Approved:

The above changes to this document have been reviewed and approved by

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for
Complaints**

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Part 1 Complaints – General Information

Overview

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Chapter 1

Concepts and Definitions for Complaints

Overview

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3-2010: Concepts and Definitions

Overview

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3-2011: Concepts

Department Authority

The Department has the authority to

- conduct unannounced inspections as often as necessary to ensure the quality of care being provided for community care facilities, Residential Care Facilities for the Chronically Ill (RCFCIs), Residential Care Facilities for the Elderly (RCFEs), Child Care Centers and Family Child Care Homes
- conduct unannounced inspections in response to a complaint for all community care facilities, including Foster Family Homes
- enter and inspect the home of a resource family approved by a Foster Family Agency (FFA), investigate all complaints, and take any action the Department deems necessary, including for resource families on inactive status, and
- inspect, evaluate, investigate a complaint or incident or initiate a disciplinary action against an FFA or take any action the Department may deem necessary for the health and safety of children placed with an FFA.

Authority: Health and Safety Code (HSC), sections 1517(c)(2), (d), and (e), 1517.4(c), 1533, 1534(a)(1), 1568.07(b)(1), 1569.33(a), 1597.08, and 1597.09(a).

CCLD complaint policy

The Community Care Licensing Division (CCLD) must initiate an on-site complaint inspection **within ten days** of receipt of a complaint, except in specific circumstances as described in statute.

Any person may request an inspection of any community care facility, RCFE, RCFCI, child care facility, or approved Certified Family Home/ Resource Family by submitting a complaint orally or in writing alleging a violation of statute, regulations, or interim licensing standards.

For more information regarding complaints at long-term care facilities, see Welfare and Institutions Code, section 9722.

Important! When a complainant reports a Priority 1 or 2 complaint alleging abuse and/or the questionable death of a person in care, it is the Department’s policy to exercise best practice and take immediate and appropriate action. This includes conducting an on-site inspection of the facility **within two business days**, or as soon as practically possible.

Authority: HSC, sections 1538, 1568.071, 1569.35, and 1596.853

Continued on next page

3-2011: Concepts, Continued

Licensing staff responsibility in a complaint case

Important! The information provided in Reference Material for Complaints is not exhaustive. Licensing staff must use individual judgement and seek counsel when necessary.

Facilities subject to complaint procedures

The procedures described in this document affect the facility types shown in the table below.

Licensing Program	Facilities Subject to Complaint Procedures
Adult and Senior Care	<ul style="list-style-type: none"> • Adult Day Programs • Adult Residential Facilities • Adult Residential Facilities for Persons with Special Health Care Needs • Community Crisis Homes • Enhanced Behavioral Support Homes • Residential Care Facilities for the Elderly • Residential Care Facilities for the Chronically Ill • Social Rehabilitation Facilities
Child Care	<ul style="list-style-type: none"> • Licensed Family Child Care Homes • Licensed Child Care Centers
Children’s Residential	<ul style="list-style-type: none"> • Adoption Agencies • Crisis Nurseries • Group Homes • Foster Family Agencies • Licensed Foster Family Homes • Short-Term Residential Therapeutic Programs • Small Family Homes • Temporary Care Shelter Facilities • Transitional Housing Placement

Continued on next page

3-2011: Concepts, Continued

Requirements for county and Regional Office staff

All Regional Office (RO) and county licensing staff that act as agents of the Department follow the appropriate procedures specified in this document when investigating allegations of

- abuse, or
- noncompliance with statutes and regulations.

RO staff must coordinate with the Investigations Branch when any allegation of serious abuse or suspicious death is received, as outlined in Reference Material for Enforcement Actions.

Where are licensing reports located?

[Licensing reports](#), including public Complaint Investigation Report (LIC 9099) and Facility Evaluation Report (LIC 809) documents, are available for inspection by the public at

- the local RO, and
- the California Department of Social Services transparency website.

3-2012: Definitions of Abuse and Related Terms

Purpose of this section

This section provides definitions and examples of concepts related to

- child abuse
- dependent adult abuse, and
- elder abuse.

Note: All information in this section applies to children, dependent adults, and elders in all facility types unless otherwise specified.

Care custodian

As applied to topics in these reference materials, a **care custodian** is

- any administrator or employee of a public or private facility or agency as specified in Welfare and Institutions Code (WIC), section 15610.17
- any individual providing care or services for elders or dependent adults, including support and maintenance staff
- community care facilities, as defined in Health and Safety Code (HSC), section 1502 and including adult day programs and foster homes
- Residential Care Facilities for the Elderly (RCFE), as defined in HSC 1569.2
- any employee of the California Department of Social Services, Community Care Licensing Division
- the office of the Long-Term Care Ombudsman, or
- any protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.

For more information on which persons and entities are defined in statute as care custodians, see WIC, sections 15610.17.

Child

For purposes of determining abuse, a **child** is any person under 18 years of age, except as specified otherwise in statute, regulations, or interim licensing standards.

For more information, see California Code of Regulations (CCR), Title 22, Sections 83001(c)(1), 84001(c)(2), 86001(c)(1)(3), 88001(c)(5), 89201(c)(7), 101152(c)(4), and 102352(c)(3).

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Child (young adults in community care facilities)

Regulations for some types of community care facilities define certain **young adults** as “children” under one or both of the following specific circumstances:

- A “child” aged 18 or 19 who meets the requirements of WIC, section 11403, and continues to be provided with care and supervision by the caregiver in the home.
- A “child with special health care needs” aged 18-22 who meets the requirements of WIC, section 17710(a), and has a medical condition, developmental disability, has been adjudged a dependent of the court, or is in the custody of the county welfare department.

Authority: CCR, Title 22, Sections 83001(c), 84001(c), 86001(c)(3), 88001(c)(5), and 89201(c)(7).

Child abuse: child care facilities

The licensee of a Child Care Center or Family Child Care Home must, regardless of consent or authorization from a child’s parent or guardian, ensure that children in care are free from

- corporal or unusual punishment
- infliction of pain
- humiliation or ridicule
- intimidation, coercion, or threat
- mental abuse, and
- actions of a punitive nature including, but not limited to
 - interference with functions of daily living including eating, sleeping or toileting; or
 - withholding of shelter, clothing, medication or aids to physical functioning.

Authority: CCR, Title 22, Sections 101223(a)(3) and 102423(a)(4). For statutory definitions of child abuse, see Penal Code, sections 11165.1 through 11165.6.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

**Child abuse:
children's
residential**

The licensee of a Short Term Residential Therapeutic Program (STRTP), Group Home (including all Group Home subcategories), Small Family Home, or Transitional Housing Placement Program must ensure that each child, regardless of whether the child is in foster care, is accorded the personal rights specified in the WIC, section 16001.9, as applicable.

In addition, the licensee must ensure that each child is free of

- physical, sexual, emotional, mental, or other abuse
- corporal or unusual punishment, exploitation
- infliction of pain
- humiliation or ridicule
- intimidation, coercion or threat, and
- actions of a punitive nature, including, but not limited to
 - interference with the daily living functions of eating, sleeping, or toileting, or
 - withholding of shelter, clothing, or aids to physical functioning.

Authority: CCR, Title 22, Sections 83072(d)(7) 84072(d)(11), 86072(c)(2), and 89372(a)(1). STRTP Interim Licensing Standards (ILS) Section 87072(d)(11), and Youth Homelessness Prevention Center ILS Section 84572(b)(1). For statutory definitions of child abuse, see Penal Code, sections 11165.1 through 11165.6.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

**Child abuse:
foster care
homes**

In any foster care home, **child abuse** means any situation in which a child suffers from one or more of the following effects:

- Serious physical injury inflicted upon the child by other than accidental means.
- Harm by reason of intentional neglect, malnutrition or sexual abuse.
- Going without necessary and basic physical care.
- Willful mental injury, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances described in statute.
- Any condition which results in violation of the child's rights, or physical, mental, or moral welfare.
- Any condition which jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

Authority: CCR, Title 22, Section 88487.8(b)(2). For statutory definitions of child abuse, see HSC, section 1531.5(c), and Penal Code, sections 11165.1 through 11165.6.

Important! While statute does not permit the Department to deny licensure to a foster care parent that administers corporal punishment to their own children, foster care parents are not permitted to administer any corporal punishment to a foster child.

Conservator

A **conservator** is a person appointed by the Superior Court to care for the person and/or estate of another, as described in the CCR, Title 22, Sections 80001(c)(15), 81001(c)(11), 87101(c)(12), and 87801(c)(8), and pursuant to the provisions of

- the Probate Code, section 1800, et seq., and
- the WIC, section 5350.

Authority: CCR, Title 22, Sections 80001(c)(15), 81001(c)(11), 82002(c)(10), 87101(c)(12), and 87801(c)(8).

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Dependent adult

For purposes of determining abuse, a **dependent adult** is a person who is between the ages of 18 and 64 years, and who has physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights.

This includes, but is not limited to persons

- who have physical or developmental disabilities, or
- whose physical or mental abilities have diminished because of age.

For this definition in statute, see WIC, section 15610.23(a). For exceptions to this definition for young adults in specific facility types, see “Child (young adults in community care facilities)”.

Dependent adult abuse

Dependent adults in community care facilities are afforded personal rights, including, but not limited to, the right to be free from

- corporal or unusual punishment
- infliction of pain
- humiliation and ridicule
- intimidation, coercion and threat
- mental abuse, or
- actions of a punitive nature, including, but not limited to
 - interference with the daily living functions of eating, sleeping, or toileting, or
 - withholding of shelter, clothing, medication, or aids to physical functioning.

Authority: CCR, Title 22, Sections 80072, 81072, 82072, 85072, and 87872.

Elder

For purposes of determining abuse, an **elder** or “elderly person” is any person 65 years of age or older.

For this definition in statute, see WIC, section 15610.27.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Elder abuse

Persons in care in an RCFE are afforded personal rights, including, but not limited to, the right to be free from

- neglect
- financial exploitation
- involuntary seclusion
- verbal, mental, physical, or sexual abuse
- punishment
- humiliation
- intimidation, and
- actions of a punitive nature, such as
 - withholding residents' money, or
 - interfering with daily living functions such as eating, sleeping, or elimination.

Authority: CCR, Title 22, Sections 87468, 87468.1 and 87468.2.

Dependent adult and elder abuse: financial abuse

In reference to dependent adults and elders, **financial abuse** occurs when a person or entity takes, secretes, appropriates, obtains, or retains the real or personal property of a person in care (or assists in such action) when it is

- for a wrongful use and/or with intent to defraud, or
- by undue influence, as defined in WIC, section 15610.70.

For more information on the definition of financial abuse in statute, see WIC, section 15610.30.

For more information on related topics in law, see HSC, section 1569.269(a)(10). CCR, Title 22, Sections 80026, 87217, 87468.2(a)(26), and 87826.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Dependent adult and elder abuse: goods and services

Goods and services necessary to avoid physical harm or mental suffering include, but are not limited to

- the provision of medical care for physical and mental health needs
- assistance in personal hygiene
- adequate clothing
- adequately heated and ventilated shelter
- protection from malnutrition, such as malnutrition due to deprivation of necessities or physical punishment
- protection from health and safety hazards, and
- transportation and assistance necessary to secure any of the foregoing goods and services.

For more information on requirements to avoid harm, see WIC, section 15610.35.

Dependent adult and elder abuse: isolation

In reference to dependent adults and elders, **isolation** can mean any of the following actions, unless specific mitigating circumstances are present as described in WIC, sections 15610.43(b) or (c):

- Acts intentionally committed to prevent a person in care from receiving their mail or telephone calls.
- Telling a caller or prospective visitor that a person in care is not present or does not wish to talk or meet, when such statement is
 - false
 - contrary to the express wishes of the person in care (whether or not the individual is competent), and
 - made for the purpose of preventing the person in care from having contact with family, friends, or concerned persons.
- False imprisonment, as defined in Penal Code, section 236.
- Physical restraint of a person in care, to prevent them from meeting with visitors.

For more information on the definition of isolation, see WIC, section 15610.43.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Dependent adult and elder abuse: mental suffering

In reference to dependent adults and elders, **mental suffering** is defined as fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by

- forms of intimidating behavior, threats or harassment, or
- deceptive acts or statements stemming from malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.

For more information on the definition of mental suffering, see WIC, section 15610.53.

Dependent adult and elder abuse: neglect

In reference to dependent adults and elders, **neglect** is defined as the negligent failure of a person to exercise that degree of care that a reasonable person in a like position would exercise when having the care or custody of a dependent adult or elder

Neglect includes, but is not limited to, a failure to

- assist in personal hygiene, or provision of food, clothing, or shelter
- provide medical care for physical and mental health needs
- protect from health and safety hazards, and
- prevent malnutrition or dehydration.

For more information on the definition of neglect, see WIC, section 15610.57.

Continued on next page

3-2012: Definitions of Abuse and Related Terms, Continued

Dependent adult and elder abuse: physical abuse In reference to dependent adults and elders, physical abuse is defined as any of the actions shown in the table below.

Note: This table is intended for reference, not enforcement.

Type of Abuse	Definition
Abusive restraint	Any use of a physical or chemical restraint or psychotropic medication for punishment or as otherwise described in WIC, section 15610.63(f).
Assault	An unlawful attempt, coupled with the present ability, to commit a violent injury on the person of another. See Penal Code, section 240. For assault with a deadly weapon, see Penal Code, section 245.
Battery	Any willful and unlawful use of force or violence upon the person of another. See Penal Code, section 242.
Physical constraint or deprivation	Unreasonable physical constraint or prolonged or continual deprivation of food or water, as described in WIC, section 15610.63(d)
Sexual assault	Any act of sexual battery, rape, rape in concert, spousal rape, incest, sodomy, oral copulation, sexual penetration, or lewd and lascivious acts as described in WIC, section 15610.63(e). For specific definitions of different types of sexual assault, see Penal Code, sections 243.4, 261, 264.1, 262, 285, 286, 287, 288(b)(2), and 289.

For more information and additional definitions in statute, see WIC, section 15610.63.

3-2013: Definitions

Introduction This section provides definitions for common terms used in Reference Material for Complaints, listed in alphabetical order.

Administrative Action A term applied to legal actions against a licensee, Certified Administrator, other employee or applicant initiated by the Department. License revocations, denials of initial license applications, Temporary Suspension Orders, and exclusions are examples of administrative actions.

For more information, see Reference Material for Enforcement Actions.

Administrator The licensee, or the adult designated by the licensee to act on their behalf in the overall management of the facility.

Authority: California Code of Regulations (CCR), Title 22, Sections 80001(a)(2), 81001(a)(2), 82001(a)(2), 87101(a)(1), 87801(a)(2), and 101152(a)(1).

Administrator (Foster Family Agencies) The person designated by the Board of Directors to be responsible for the operation of the Foster Family Agency.

Authority: CCR, Title 22, Section 88001(a)(2).

Adult Day Program Any community-based facility or program that provides care to persons 18 years of age or older in need of

- personal services
- supervision, or
- assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

Authority: Health and Safety Code (HSC), section 1502(a)(2).

Continued on next page

3-2013: Definitions, Continued

Adult Residential Facility

Any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following:

- persons 18 years of age through 59 years of age, and/or
- persons 60 years of age and older in accordance with CCR, Title 22 Section 85068.4.

Authority: CCR, Title 22, Section 80001(a)(5).

Adult Residential Facility for Persons with Special Health Care Needs

A residential home that provides 24-hour services for up to five adults with developmental disabilities who have special health care and intensive support needs.

Authority: HSC, section 1567.50(b), Welfare and Institutions Code (WIC), section 4684.50(f) and (g).

Attorney-client privilege

A legal privilege that works to keep communications between an attorney and their client confidential.

The privilege is asserted in the face of a legal demand for the communications, such as a discovery request or a demand that the lawyer or client testify under oath.

Continued on next page

3-2013: Definitions, Continued

Authorized representative

Any person or entity authorized by law to act on behalf of any person in care in a community care facility. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency. **Authority:** CCR, Title 22, Sections 80001(a)(7) and 81001(a)(6).

Variations used by specific programs or facility types are shown in the table below.

Program or Facility Type	Variation
Adult Day Programs	Any person or entity authorized by law to act on behalf of any client. Such person or entity may include, but not be limited to a conservator. Authority: CCR, Title 22, Section 82001(a)(8).
<ul style="list-style-type: none"> • Child care facilities • Children’s residential facilities 	The term parent has the same meaning as “authorized representative” and means any person or entity authorized by law to act on behalf of a child. Such person or entity may include, but not be limited to, a minor's parent, legal guardian, conservator, or public placement agency. Authority: CCR, Title 22, Sections 89201(a)(7), 101152(a)(5), and 201352(p)(1).
Residential Care Facilities for the Chronically Ill (RCFCI)	Any person or entity authorized by law to act on behalf of any resident. Such person or entity includes, but is not limited to, a conservator, a public placement agency, or the person who has durable power of attorney for health care for the person in care. Authority: CCR, Title 22, Section 87801(a)(7).
Residential Care Facilities for the Elderly (RCFE)	See the term “representative” in 3-2013: Definitions.

Business day

When a licensing-related date is measured in **business days**, the time period only counts days falling on Monday, Tuesday, Wednesday, Thursday, and Friday, unless one or more of those days is a holiday.

Continued on next page

3-2013: Definitions, Continued

Calendar day When a licensing-related date is measured in **calendar days**, the time period counts all seven (7) days of the week: Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, including holidays.

Example: A complaint investigation must be made within ten calendar days after receiving a complaint.

California Code of Regulations Contains 28 Titles which specify rules and regulations written by California state agencies. These regulations have the power of law and are

- reviewed and available to the public for comment prior to adoption
- published by the Office of Administrative Law, and
- filed with the Secretary of State.

Note: The [California](#) Department of Social Services ([CDSS](#)) enforces Title 22 of the California Code of Regulations: Social Security, Division 6: Licensing of Community Care Facilities, Division 12: Child Care Facility Licensing Regulations, and Division 15: Home Care Services Consumer Protection.

Capacity The maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.

Authority: CCR, Title 22, Section 80001(c)(2), 81001(c)(2), 82001(c)(2), 87801(c)(2), 89201(c)(2), 102352(c)(2), and 101152(c)(2).

Capacity (RCFE) The maximum number of persons authorized to be provided services at any one time in any licensed Residential Care Facility for the Elderly (RCFE).

Authority: HSC, section 87101(c)(2).

Continued on next page

3-2013: Definitions, Continued

Centralized Complaint and Information Bureau

A call center within the Community Care Licensing Division (CCLD), staffed by Centralized Complaint and Information Bureau (CCIB) analysts, that receives complaints from individuals reporting complaints or concerns at statewide licensed care facilities.

Complaints may be made to the CCIB via

- telephone
- fax
- email, or
- USPS (mail).

Note: For more information about CCIB complaint-related policies and procedures, see 3-2100: Receiving a Complaint.

CCIB Analyst

An analyst who records incoming complaints at the CCIB.

Certified Family Home

An individual or family certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that foster family agency for placements.

Authority: HSC, section 1506(c).

Child Care Center

A child care facility of any capacity, other than a Family Child Care Home, as defined in CCR, Section 102352(f)(1), in which less than 24-hour per day non-medical care and supervision are provided to children in a group setting.

Note: The term “Child Care Center” supersedes the term “Day Care Center” as used in previous regulations.

Authority: CCR, Title 22, Section 101152(c)(7).

Continued on next page

3-2013: Definitions, Continued

Child Care Facilities A place or building in which less than 24-hour-per-day nonmedical care and supervision, as defined in CCR Section 101152(c)(2), are provided to children in a group setting.

Note: The term “Child Care Facility” supersedes the term “Child Day Care Facility” as used in previous regulations.

Authority: CCR, Title 22, Section 101152(c)(9).

Citation A notice of deficiency issued to a licensee for a violation of a statute or regulation.

Authority: HSC, sections 1596.893a(a), 1526.75(b), and 1536(d).

Client A child or adult who is receiving care and supervision in a community care facility. Client includes “resident” as used in the Community Care Facilities Act.

Authority: HSC, section 1500 et seq. CCR, Title 22, Sections 80001(c)(10) and 81001(c)(6).

Variations on this definition for specific facility types are shown in the table below.

Facility Type	Definition
Adult Day Programs	“Client” shall also be considered a “consumer,” and means an individual who has been determined by a regional center to meet the eligibility criteria of WIC section 4512 and applicable regulations, and for whom the regional center has accepted responsibility. Authority: HSC, section 1567.80(a).
Community Crisis Homes	“Client” means an adult who is receiving care and supervision in an adult day program. Authority: CCR, Title 22, Section 82001(c)(6).

Continued on next page

3-2013: Definitions, Continued

Community Care Facility

Any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children.

Authority: HSC, section 1502(a).

Complaint

A **complaint** is a notice of an alleged violation of a [Community Care Licensing](#) statute or regulation. The source of the allegation may be anyone including a child, client/resident, parent, guardian, conservator, authorized representative, relative, representative of a person in care, facility employee, neighbor, an agency using the facility, or others in the community.

Note: Emergency situations that place at risk the health and safety of a person in care must be reported to 9-1-1.

Complaint (Foster Family Agencies)

Any notice of an alleged violation of any regulation or statute of this state, including but not limited to, CCR Title 22 regulations and Penal Code violations.

Authority: CCR, Title 22, Section 88001(c)(8).

Complainant

An individual, or entity, who files a complaint alleging a violation of CCLD statute and regulations to CCLD by telephone, mail or other means, against a licensed or unlicensed care facility or individual.

Complaint receipt date

The date a complaint is received by the Department. Complaints received after 5:00 p.m. or on a holiday will reflect on the next business day. Complaints can be made to an individual’s local Regional Office (RO) or to the CCIB.

For more information on contacting the Department, see 3-2101: How to File a Complaint.

Continued on next page

3-2013: Definitions, Continued

Conservator

A person appointed by the Superior Court pursuant to the provisions of section 1800 et seq. of the Probate Code, or section 5350 of the WIC, to care for the person, or estate, or person and estate, of another.

Authority: CCR, Title 22, Sections 80001(c)(15), 81001(c)(11), 82001(c)(12), and 87801(c)(1).

Variations on this definition for specific facility types are shown in the table below.

Facility Type	Definition
Adult Day Programs	A person appointed by the Superior Court pursuant to the provisions of section 1801 of the Probate Code or section 5350 of the WIC. Authority: CCR, Title 22, Section 82001(c)(10).
Residential Care Facilities for the Elderly	A person appointed by the Superior Court pursuant to Probate Code section 1800 et seq. or WIC section 5350, to care for the person, or estate, or person and estate, of an adult. Authority: CCR, Title 22, Section 87101(c)(12).

Conduct inimical

Conduct that poses a risk or threat to the health and safety, protection, or well-being of a child, nonminor dependent, another individual, or the people of the state of California.

Authority: Interim Licensing Standards (ILS) for Foster Family Agencies, Section 88201(c)(4), and ILS for Short-Term Residential Therapeutic Programs, Section 87001(c)(10).

Note: For other Community Care Facilities, RCFCLs, and RCFEs, “Conduct Inimical” is not defined in statute or regulation. However, for more information on how the term is used, see HSC, sections 1550(c), 1558(a), 1568.082(a), 1568.092(a), 1569.50(a), 1569.58(a), 1596.885(c), and 1596.8897(a).

Continued on next page

3-2013: Definitions, Continued

Crisis Nursery [A facility licensed by the Department to operate a program pursuant to HSC section 1516 providing short-term care and supervision for children under six years of age who are voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation.](#)
Authority: HSC, sections [1502\(a\)\(17\)](#) and [1516](#).

Deficiency Any failure to comply with any provision of the following [HSC Acts](#), and/or failure to comply with regulations adopted by the Department pursuant to the Acts shown in the table below.

Act or Statute Name	Statute Sections
Community Care Facilities Act	HSC, section 1500, et seq.
Residential Care Facilities Act for the Elderly Act	HSC, section 1569, et seq.
Residential Care Facilities for Persons with Chronic, Life-Threatening Illness statute	HSC, section 1568.01, et seq.
Child Day Care Act	HSC, section 1596.70, et seq.

Authority: CCR, Title 22, Sections 80001(d)(2), 81001(d)(2), 89201(d)(1), 101152(d)(1), and 10252(d)(1).

Enhanced civil penalty A civil penalty assessed for a violation that constitutes physical abuse, or resulted in the death of, or serious (bodily) injury to a person in care.

Continued on next page

3-2013: Definitions, Continued

Family Child Care Home

Regularly provided care, protection and supervision of children, in the caregiver's own home, for periods of less than 24 hours per day, while the parents or authorized representatives are away.

Small family child care homes provide family child care for up to six children, or for up to eight children if the criteria in CCR Section 102416.5(b) are met. These capacities include children under age 10 who reside at the licensee's home.

Large family child care homes provide family child care for up to 12 children, or for up to 14 children if the criteria in CCR Section 102416.5(d) are met. These capacities include children under age 10 who reside at the licensee's home and the assistant provider's children under age 10.

Note: The term "Family Child Care Home" supersedes the term "Family Day Care" as used in previous regulations.

Authority: CCR, Title 22, Section 102352(f)(1).

FAS

Field Automation System, the electronic database system used by licensing staff, which provides digital versions of Department forms, Evaluator Manual documents, statutes and regulations, and a tracking system for managing the regulation of licensed facilities.

Finding

A generic term used to describe each discrete item of information observed or discovered during an inspection/investigation about facility practices relative to a specific deficiency.

Foster Family Home

The home owned, leased, or rented by the caregiver(s) as their residence and where the caregiver is licensed or approved to provide 24-hour care and supervision for six or fewer foster children, as defined in HSC section 1502(a)(5). A Foster Family Home (FFH) may provide sibling care for up to eight children provided the requirements of HSC section 1505.2 are met.

Authority: CCR, Title 22, Section 89201(f)(3).

Note: FFHs are subject to unannounced inspections only in response to

- a complaint
- when a license is on probation
- when a facility compliance plan requires an annual inspection, or
- when an accusation against a licensee is pending.

Continued on next page

3-2013: Definitions, Continued

Infant care center Any Child Care Center (CCC), or part of a CCC, of any capacity where less than 24-hour per day nonmedical care and supervision are provided to infants in a group setting.
Authority: CCR, Title 22, Section 101152(h)(2).

Investigations Branch The branch which receives requests for investigative services from the ROs within CCLD, the CDSS Legal Division, and other authorized sources.

License A license is defined according to the applicable section of Title 22 of the CCR, as shown in the table below.

Authority	Description
CCR, Title 22, Section 80001(l)(2)	Authorization to operate a community care facility and to provide care and supervision.
CCR, Title 22, Section 82001(l)(1)	Authorization to operate a Social Rehabilitation Facility (SRF) and to provide care and supervision.
CCR, Title 22, Section 87101(l)(2)	A basic permit to operate a Residential Care Facility for the Elderly .
CCR, Title 22, Section 87801(l)(1)	Written authorization to operate a Residential Care Facility for the Chronically Ill and to provide care and supervision.
CCR, Title 22, Section 101152(l)(2)	A written authorization by the Department to operate a Child Care Center and to provide care and supervision.
CCR, Title 22, Section 102352(l)(1)	A written authorization by the Department to operate a Family Child Care Home .

Note: Licenses for community care facilities (including SRFs) and RCFCIs are not transferable.

Continued on next page

3-2013: Definitions, Continued

Licensed professional

A person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within their scope of practice.

Authority: CCR, Title 22, Section 80001(l)(3), 81001(l)(2), 87101(l)(3), and 82001(l)(2).

For more information, see CCR, Title 22, Sections 84001(h)(1), (q)(1), (s)(3), and (s)(5), 85101(b)(1) and (q)(1), 85301(h)(1), 89201(h)(2) and (m)(3), 88001(h)(1), (s)(3), and (s)(4), 101152(m)(1), and 102352(m)(1).

Licensee

The adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a

- licensed community care facility
- Child Care Center
- Family Child Care Home
- Residential Care Facility for the Elderly, or
- Residential Care Facility for the Chronically III.

Authority: CCR, Title 22, Sections 80001(l)(4), 81001(l)(3), 87101(l)(4), 87801(l)(2), 82001(l)(3), 102352(l)(2), and 101152(l)(2).

Licensing Program Analyst

Refers to State and county licensing workers who respond to complaints, appeals, inquiries, and conduct inspections for the licensing and evaluation of community care facilities.

Note: “Licensing Program Analyst” is referred to as “Evaluator” in CCR, Title 22, Sections 80001(e)(4), 81001(e)(4), 82001(e)(2), 87101(e)(4), 87801(e)(2), and 101152(e)(3). Distinctions between State and county personnel are specified.

Local unit office

Refers to a small office located in the same building as a larger RO building space. Local unit offices are usually located in rural areas in which there are only enough facilities to support one unit.

Note: Local unit offices offer the same services and supports to licensees as larger ROs.

Continued on next page

3-2013: Definitions, Continued

Mandated reporter

Someone who, whether they are paid or unpaid, assumes part-time or full-time responsibility for a child, dependent adult, or elder. Mandated reporters include

- county/state licensing staff
- administrators/supervisors
- custodians
- health practitioners
- clergy members
- county Adult Protective Services agency staff
- local law enforcement agency staff, or
- any licensed staff of a public or private facility or home providing care for elder or dependent adults, or children.

Authority: CCR, Title 22, Section 80001(m)(1), 81001(m)(1), 82001(m)(1), and 87101(m)(1).

For additional information, see WIC, section 15630(a), and Penal Code, section 11166(a).

Medical professional

An individual who is licensed or certified in California to perform the necessary medical procedures within their scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

Authority: CCR, Title 22, Sections 8001(m)(2), 81001(m)(2), 82001(m)(2), 87101(m)(2), 87801(m)(1), 89201(m)(3), 101152(m)(1), and 102352(m)(1).

Noncompliance conference

A formal meeting, led by a Regional Manager or designee, for corrective action agreements to take place between the Department and a licensee.

Person in care

A child or adult who is receiving care and supervision while living in a facility.

Preponderance of the evidence

The standard of proof for a Community Care Licensing citation or other action. This means that the evidence must show a substantiated complaint determination to be **more likely** correct than not.

Continued on next page

3-2013: Definitions, Continued

Probation The period of time that a facility is required to comply with specific terms and conditions to prevent revocation of the facility’s license or denial of an application. If all the terms and conditions are met, the probation is lifted after the specified date.

Regional Office The offices of the CDSS, located throughout the State, which handle complaints and regulate facilities. Complaints can be made directly to an RO.
Authority: HSC, section 1568.041.

Representative An individual who has authority to act on behalf of the resident of a RCFE, including but not limited to, a conservator, guardian, person authorized as agent in the resident's valid advance health care directive, the resident's spouse, registered domestic partner, or family member, a person designated by the resident, or other surrogate decision maker designated consistent with statutory and case law.
Authority: CCR, Title 22, Section 87101(r)(3).

Resident Means any or all of the following: any adult receiving care and supervision, any emancipated minor receiving care and supervision, and any adult or unemancipated minor in a family unit.
Authority: CCR, Title 22, Section 87801(r)(4).

Residential Care Facility for the Chronically III Any place, building, or housing arrangement which is maintained and operated to provide care and supervision to all or any of the following:

- Adults with HIV disease or AIDS.
- Emancipated minors with HIV disease or AIDS.
- Family units as defined in CCR, Title 22, Section 87801(f)(1) with adults, children, or both with HIV disease or AIDS.

Authority: CCR, Title 22, Section 87801(r)(5).

Continued on next page

3-2013: Definitions, Continued

Residential Care Facility for the Elderly

A housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are 60 years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents.

Authority: California Code of Regulations, Title 22, Section 87101(r)(5).

Resolution codes

Codes used to indicate the resolution, or determination, of a complaint allegation via the letters **S** (substantiated), **US** (unsubstantiated), and **U** (unfounded) on the Complaint Report (LIC 802), as shown in the graphic below.

NATURE OF COMPLAINT (Separate complaint into specific allegations and assign one of the following complaint codes.)				
1. Physical Abuse/Corporal Punishment	6. Crimes	11. Food Service	16. Qualifications	21. Reporting Requirements
2. Sexual Abuse	7. Physical Plant	12. False Statements	17. Financial Issues	22. Admission Agreement
3. Personal Rights	8. Record Keeping	13. Medication	18. Questionable Death	23. Ratio
4. Unlicensed Care	9. License	14. Financial Abuse	19. Other	24. Conduct Inimical
5. Fire Clearance	10. Neglect/Lack of Supervision	15. Level of Care	20. Criminal Record Clearance	25. Eviction/Discharge
				26. Manual Restraint
Do not enter more than 3 lines in the input boxes below				
COMPLAINT CODE	ALLEGATIONS			RESOLUTION CODE
				S US U
1				<input type="checkbox"/>
2				<input type="checkbox"/>
3				<input type="checkbox"/>

Note: For more information, see 3-2110: Recording a Complaint.

Resource Family

An individual or family that has successfully met both the home environment assessment and the permanency assessment criteria necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. A Resource Family may be approved by a County or a Foster Family Agency. For more information, see WIC, section 16519.5(c)(1).

Authority: HSC, section 1517(a)(2).

Revocation

The administrative action to revoke a license because of serious or chronic violations of licensing statutes or regulations.

Authority: HSC, sections 1550, 1551, 1554, 1555, 1566.7, 1567.67, 1567.69, 1567.83(b), and 1567.86(a).

Continued on next page

3-2013: Definitions, Continued

Revocation (child care facilities)

A revocation is an administrative action taken by the Department to void or rescind the license of a child care facility because of serious or chronic violations of licensing laws or regulations by the facility.

Authority: HSC, section 1596.773.

School age child

Any child who

- has entered the first grade or above, and/or
- is in a child care program providing care and supervision exclusively to children enrolled in kindergarten or above.

Authority: CCR, Title 22, Section 101152(s)(1).

School age child center

A Child Care Center or part of a Child Care Center that provides nonmedical care and supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of school age children or nonminor students, or both, in a group setting for less than 24 hours per day.

Authority: HSC, section 1596.7915.

Serious injury

A serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

Authority: HSC, section 1596.8865. For more information, see Penal Code, section 243.

Serious bodily injury (RCFE)

An injury at a RCFE involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

For more information on the definition of serious bodily injury in RCFEs, see WIC, section 15610.67.

Continued on next page

3-2013: Definitions, Continued

**Social
Rehabilitation
Facility**

Any facility which provides 24-hour-a-day nonmedical care and supervision in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling.

Authority: CCR, Title 22, Section 81001(s)(5).

**Unannounced
inspection**

An on-site inspection made without prior notice to the licensee.

Authority: HSC, sections 1533(b)(1), 1534(a)(1), 1534(a)(2)(A), 1568.07(b)(1), 1569.33(a), 1596.8535(a), 1597.08, 1597.09(a), 1597.55a(b), 1597.55a(f), and 1597.55b(c) and (d).

3-2014: Common Forms

Purpose	This section provides descriptions of common forms referenced in Reference Material for Complaints, listed by number code.
Contact Sheet (LIC 185)	Used to record all pertinent telephone contacts or office interviews held with applicants/licensees or with others involved in operation of a community care facility. Note: This form is useful for the Licensing Program Analyst to track brief conversations in one place.
Criminal Record Statement (LIC 508)	Used to disclose any conviction of an individual who is associated with licensed facilities. State law requires that all individuals be fingerprinted and disclose any conviction (plea of guilty, nolo contendere, or a verdict of guilty).
Unusual Incident/Injury Report (LIC 624)	Used to notify a reporting agency about unusual incidents and injuries. Note: Licensees must notify the licensing agency, placement agency and responsible persons if any, by the next working day of an unusual incident or injury. The written report must be submitted by the licensee within seven days of the occurrence.
Complaint Report (LIC 802)	Documents complaints received in the Centralized Complaint and Information Bureau and the Regional Offices.
Facility Evaluation Report (LIC 809)	The official public document that is a written record of the facility inspection, except for complaint investigations. The electronic version of the LIC 809 form includes the LIC 809C for narrative overflow and the LIC 809D for writing up citations of Type A and Type B violations.
Confidential Names (LIC 811)	The confidential form used to record the actual names of individuals for whom an <i>identifier</i> reference has been used in publicly available documentation.

Continued on next page

3-2014: Common Forms, Continued

Detail Supportive Information (LIC 812)

A form used for recording confidential or supplemental details of an inspection or investigation, including the details of an interview. The LIC 812 is confidential (unless specifically marked as public) and is therefore not given to the licensee at the conclusion of an inspection.

Note: This form is **only** provided to complainants and licensees upon request if all confidential information is redacted, or the form was originally marked as public.

Facility Photography Report (LIC 813)

A form used for identifying photographs included as documentation.

Declaration (LIC 855)

The official document to submit a formal statement to the Department.

Complaint Intake Notification (LIC 856A)

Used by Department staff to notify the complainant in writing that the complaint was received and provide them the contact information of the Regional Office handling the complaint investigation.

Note: An LIC 856A is not issued to the complainant if they have not provided contact information, or if the complainant only provided a telephone number as their contact method. If the complainant only provided an email address as their contact method, this form will be completed and emailed to the complainant, rather than physically mailed.

Complaint Determination Notification – Substantiated (LIC 856B)

Used by Department staff to notify the complainant in writing that the complaint investigation has concluded with a determination of “substantiated.”

Note: If any allegations in the complaint are determined to be other than “substantiated,” the complainant will receive a separate letter for each additional type of determination.

Continued on next page

3-2014: Common Forms, Continued

Complaint Determination Notification – Unsubstantiated (LIC 856C)

Used by Department staff to notify the complainant that the complaint investigation has concluded with a determination of “unsubstantiated.”

Note: If any allegations in the complaint are determined to be other than “unsubstantiated,” the complainant will receive a separate letter for each additional type of determination.

Complaint Determination Notification – Unfounded (LIC 856D)

Used by Department staff to notify the complainant that the complaint investigation has concluded with a determination of “unfounded.”

Note: If any allegations in the complaint are determined to be other than “unfounded,” the complainant will receive a separate letter for each additional type of determination.

Children’s Record Review (LIC 857)

Used by licensing staff to record whether documentation retained in each child’s file at the facility is complete, current, lacking, incomplete, or requires updating.

Client/ Resident Records Review (LIC 858)

Used by licensing staff to record whether documentation retained in each person in care’s file at the facility is complete, current, lacking, incomplete, or requires updating.

Review of Staff/Volunteer Records (LIC 859)

Used by licensing staff to record whether documentation retained in the staffing files at the facility is complete, current, lacking, incomplete, or requires updating.

Applicant/ Licensee Rights (LIC 9058)

The official document providing site inspection rights, initial appeal rights, and guidelines to file an appeal if a licensee disagrees with the action taken by the licensing agency.

Continued on next page

3-2014: Common Forms, Continued

Complaint Investigation Report (LIC 9099)

The official public document that is a **written record** of a complaint investigation. The electronic version of the LIC 9099 form includes the LIC 9099C for narrative overflow and the LIC 9099D for writing up citations of complaint-related Type A and Type B violations.

Note: A complaint investigation at an unlicensed facility is documented using the LIC 9099 form, whether or not a Notice of Violation of Law is also issued.

Request for Live Scan Service (LIC 9163)

Used by applicants of certain facility types for use of a Live Scan site for running fingerprints during a background check and receiving a Requests for Arrests and Prosecutions (RAP-back) service from the Department of Justice.

Suspected Child Abuse Report (SS 8572)

A form used to notify a reporting agency about suspected cases of child abuse and may be used to cross-report to another agency.

Part 2 Intake Process

Overview

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Chapter 2 Centralized Complaint and Information Bureau Process

Overview

Contents

This chapter describes the complaint intake process. The process begins when the complainant contacts the Centralized Complaint and Information Bureau or Regional Office to report a complaint.

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3-2100: Receiving a Complaint

Overview

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3-2101: How to File a Complaint

What is a complaint?

A complaint is an allegation of a violation of licensing statutes or regulations, including an allegation of conduct inimical to the health, morals, welfare, or safety of a person in care.

Reporting a complaint

An individual can report a complaint via mail, phone, fax or email to the Centralized Complaint and Information Bureau (CCIB). Complaints can also be made via the local Regional Office (RO) by phone, mail, fax, email, or in person. Complaints made in person at the RO are recorded by complaint intake staff in that office, and not handled by CCIB.

Note: A complaint received in writing is processed the same as a complaint received by telephone or in person. For more information, see 3-2191: Processing the Complaint Report (LIC 802).

Who may file a complaint?

Anyone can file a complaint. Types of complainants include but are not limited to

- person in care
 - current and former facility staff
 - family members
 - law enforcement
 - neighbors
 - Ombudsman
 - placement workers, and
 - social workers.
-

Continued on next page

3-2101: How to File a Complaint, Continued

How to contact CCIB The table below provides information for contacting CCIB.

CCIB Contact	Refer To
Telephone	<ul style="list-style-type: none"> • the Complaint Hotline at 1-844-LET-US-NO • 1-844-538-8766
Fax	916-414-2551
USPS (mail)	California Department of Social Services 744 P Street, M.S. T 9-3-52 Sacramento, CA 95814
Email	letusno@dss.ca.gov

Business hours are **Monday through Friday, 8:00 a.m. to 5:00 p.m.**, excluding state holidays.

Authority: Health and Safety Code, section 1533(b)(2).

How to contact the Regional Office A list of ROs is available on the [Community Care Licensing website](http://www.cdss.ca.gov/inforesources/CCLD-Complaint-Hotline) (<http://www.cdss.ca.gov/inforesources/CCLD-Complaint-Hotline>), with contact information for each office. Complaints may also be filed in person at an RO, or by speaking to the Licensing Program Analyst (LPA) assigned to inspect a given facility.

Licensing offices serving remote areas In offices serving remote areas, it may be most efficient for the Licensing Program Manager to contact an LPA in the field to respond to the complaint when the LPA is already near the facility.

Continued on next page

3-2101: How to File a Complaint, Continued

Who completes the Complaint Report?

The table below provides guidelines for completing an LIC 802, depending on who receives the complaint.

For more information, see 3-2100: Receiving a Complaint.

If ...	Then ...
the complaint is received by CCIB	the LIC 802 is completed by the CCIB Analyst or CCIB Manager.
<ul style="list-style-type: none"> • the complaint is made directly to the RO • the LPA becomes aware of an allegation while in the field, or • the complaint is reported by the Investigations Branch to the Regional Office 	the LIC 802 is completed by the LPA, or any other complaint intake staff in the Regional Office. Note: Complaints originating in the RO are not forwarded to CCIB.

Complaints not accepted by CCIB

CCIB is not authorized to process complaints for certain living arrangements, entities, agencies, or facilities not within the licensing authority of Community Care Licensing Division.

Complaints are evaluated by intake staff on a case-by-case basis and may require consultation with the Department’s Legal Division and/or Program policy staff.

3-2102: Complainant Contact

Clarifying the complaint

To clarify an incoming complaint, the complaint intake staff must seek answers to the following questions:

- What problem is being reported by the complainant?
- How did the complainant receive information about the complaint?
- Can the complainant be a resource in investigating the complaint?
- Does the alleged problem violate any licensing statutes or regulations?

The intake analyst handling the incoming complaint must record the details of the complaint and summarize the complaint allegation(s) back to the complainant before concluding the intake.

Important! The intake analyst must treat complainants with courtesy and assure them of the Department’s concern for quality of care in licensed facilities.

Can the complainant be a resource?

Determining whether a complainant can be a resource in the investigation includes

- an evaluation of the complainant’s ability for making judgments, and
- determination of the complainant’s willingness to provide a statement or act as a witness, if needed.

For more information, see 3-2110: Recording a Complaint.

Inform complainant of notification process

When a complaint is received at the Centralized Complaint and Information Bureau (CCIB), the complaint intake staff must inform the complainant that the Licensing Program Analyst (LPA) at the Regional Office will

- contact the complainant before the investigation to enumerate all allegations,
- inform the complainant that an investigation of the allegations will be initiated, and
- notify the complainant of the results within a specified timeframe (unless the complainant has not provided contact information or requests no contact).

Note: When a complaint is determined by the Department to be harassment and without substance, the complaint is closed by the LPA without investigation. For more information, see 3-2110: Recording a Complaint.

Continued on next page

3-2102: Complainant Contact, Continued

Follow-up with the complainant

The complaint intake staff receiving the complaint will ask the caller to provide identifying information (used only to follow up with the complainant). Identifying information includes **name, physical address, email address, and telephone number.**

If the complainant does not provide any contact information, the Department will not be able to contact the complainant with the results of the investigation. In these cases, the complainant may call back at a later date to inquire about the status of the complaint.

Important! For complaints against a Foster Family Home (FFH), the “Facility Name” field on the Complaint Report (LIC 802) **must** be redacted for confidentiality reasons if the form is ever made public (for example, such as may occur during a legal proceeding).

If a person in care files a complaint

If a person in care files a complaint about the facility in which they reside, Department staff must **never** place the complainant’s right to confidentiality at risk when communicating with the complainant (for example, mailing correspondence to the facility if doing so could reveal the complainant’s identity to facility staff).

Such actions must be carefully considered by Department staff on a case-by-case basis, depending on the circumstances in each case.

When are complaints referred?

Complaints involving allegations that are outside the scope of the Department are referred to the appropriate agency. The table below shows situations in which a complaint must be referred to another department or agency.

Complainant	Complaint	Complaint Is Referred To
a disgruntled employee	<ul style="list-style-type: none"> • wages • hours • unfair working conditions 	Department of Industrial Relations
an individual	a county-licensed facility (typically, a Foster Family Home)	The county licensing agency
a relative of a person in care	alcohol and/or drug treatment facilities for adults	Department of Health Care Services

Continued on next page

3-2102: Complainant Contact, Continued

Complaints being investigated by IB

When the Investigations Branch (IB) is involved in the investigation, IB shall coordinate contact of the complainant prior to the investigation.

Referral of Foster Family Home complaints

The standard procedure for an FFH is to refer the complainant to the county licensing agency.

Drug and alcohol-related complaints

The Community Care Licensing Division (CCLD) does not license drug and alcohol treatment of facilities. The Department of Health Care Services (DHCS) is the agency with complete jurisdiction and oversight for drug and alcohol-related treatment complaints that also do not represent a potential violation of requirements under the Department’s authority.

The DHCS licenses drug and alcohol treatment facilities and certifies some CCLD-licensed Group Homes and Adult Residential Facilities that have a drug and alcohol component. CCLD accepts a complaint only when the complaint involves a facility which CCLD has authority over and the complaint represents a potential violation of a regulation, statute, or interim licensing standard which is enforced by CCLD.

3-2103: Complainant Confidentiality

Complainant rights

All complainants have a right to report a complaint and to have their identity remain confidential. This applies to all complainants, including organizations.

Complaints referred to CCLD

If the complaint is referred to Community Care Licensing Division (CCLD) by another agency, the licensee is not entitled to know the identity of the agency unless the complainant waives the right to confidentiality.

Complainant identification

Occasionally licensees can identify a complainant from sources other than the licensing agency or by the nature of the allegation itself. If this occurs, the licensing agency is still required to withhold any information regarding the complainant.

Protecting complainant confidentiality

When sending notification of a complaint investigation’s status to a complainant – usually, via a Complaint Intake Notification (LIC 856A) or a Complaint Determination Notification (LIC 856B/C/D) – Department staff must take care that a complainant’s confidentiality is not accidentally violated.

Example: If the complainant is a resident in a facility, sending a physical copy of a notification to the facility could lead to the complainant’s identity becoming known to the licensee or facility staff. Unless the complainant has specifically waived their right to confidentiality in the complaint investigation and the Licensing Program Analyst (LPA) is confident that the complainant will not be subject to any adverse consequences, the LPA may choose to seek an alternate address (such as that of the authorized representative of the person in care) to send the LIC 856 series notifications.

Important! Complainants who are persons in care must be informed that notifications regarding their complaint will be sent to the address they provide (if they choose to provide one). If the person in care provides an address which the LPA feels may not preserve confidentiality, such as a facility address, it is prudent for the intake analyst to ask for another address or method of contact – for example, the address of an authorized representative. In these cases, Department staff shall discuss with their manager alternate ways to communicate information about the complaint.

3-2104: Receipt of Unusual Incident/Injury Reports

Handling of unusual incidents or injuries

This section discusses how to handle unusual incident or injuries submitted by facilities to the Community Care Licensing Division. An Unusual Incident/Injury Report (LIC 624) may

- indicate a range of problems within a facility
- require a special inquiry, and/or
- require additional evaluation and follow-up.

Facility-reported incidents

An LIC 624 submitted to the Department by facilities that mention a violation or potential violation are not considered complaints, because the information is an admission by the facility that the event occurred.

Note: For Foster Family Agencies, reported incidents may result in a complaint.

Incident vs. complaint

An incident report is an admission of an incident and is **not** a complaint, and therefore does not automatically lead to an investigation. There are circumstances where specific action may be required in response to an incident report, as shown in the table below.

If ...	Then ...
another individual reports the same incident as a complaint	the Regional Office must accept the report as a complaint.
<ul style="list-style-type: none"> • the information on the LIC 624 is the same as the information on a Complaint Report (LIC 802), and • the Licensing Program Manager (LPM) is satisfied with the follow-up that was conducted after the LIC 624 was received 	the LIC 802 must be retained in the Department’s records and not deleted, even if it is identical to the LIC 624. Note: If, in consultation with the LPM, the Licensing Program Analyst determines that follow up to the LIC 624 met the Department’s duties for complaints, the actions are documented and the complaint closed, with additional follow up as necessary.
the information provided by a complainant <ul style="list-style-type: none"> • is different than what the licensee reported, or • conflicts with what the licensee reported 	further investigation and a facility inspection may be warranted.

Continued on next page

3-2104: Receipt of Unusual Incident/Injury Reports, Continued

Are incident reports processed by CCIB?

Complaint intake staff at the Centralized Complaint and Information Bureau (CCIB) **do not** intake LIC 624 forms. All incident reports are forwarded to the local Regional Office.

Commonly reported incidents

When a facility submits an LIC 624 or a Law Enforcement Contact Report (LIC 624LE), the report may often involve

- death
- emergency information
- injury
- outbreak of disease
- personnel changes
- special incidents
- structural changes
- use of restraints
- law enforcement contacts, and
- other critical information.

Incident reports reported to other agencies

If an incident report is made to other agencies and not to the Department of Social Services, CCIB Analysts must consult with management.

3-2105: Mandated Reporting

What is the role of a mandated reporter?

A mandated reporter must make a report to the appropriate agency whenever they know or reasonably suspect that a child, dependent adult, or elder has been the victim of

- physical or sexual abuse
- neglect
- isolation
- abandonment, or
- financial abuse.

Authority: California Code of Regulations (CCR), Title 22, Sections 80001(m)(1), 81001(m)(1), 82001(m)(1), and 87101(m)(1).

For additional information, see the Welfare and Institutions Code (WIC), section 15630(a), and the Penal Code, section 11166(a).

Examples of mandated reporters

The following individuals are mandated reporters:

- county/state licensing staff
- administrators/supervisors
- authorized representative
- conservator
- health practitioners
- clergy members
- county Adult Protective Services agency staff
- local law enforcement agency staff
- maintenance staff, and
- any licensed staff of a public or private facility providing care for elder or dependent adults.

For more information, see WIC, section 15630(a).

Continued on next page

3-2105: Mandated Reporting, Continued

Are Department staff mandated reporters?

Any Department staff who receives or processes complaint information that may indicate suspected abuse, or who observes suspected abuse, is required by law to report the suspected abuse.

All of the following individuals are considered mandated reporters:

- Any Licensing Program Analyst (LPA)
- Any Centralized Complaint and Information Bureau (CCIB) Analyst
- All other complaint intake staff.

Who investigates reports of abuse?

In addition to the Community Care Licensing Division investigating alleged violations of the Department’s statutes and regulations, other investigations within the State of known or suspected abuse are the responsibility of

- Adult Protective Services
- Child Protective Services
- local law enforcement
- California Department of Justice, and
- California State Long-Term Care Ombudsman.

When is an abuse report made?

The mandated reporter must make an initial report to the Department by telephone, fax, or email **immediately**, or as soon as is practicably possible.

Examples of abuse: elders and dependent adults

Examples of elder abuse and dependent adult abuse include

- Deprivation
- Financial abuse
- Sexual abuse
- Treatment which results in physical harm, pain, or mental suffering
 - Abandonment
 - Abduction
 - Neglect
 - Physical abuse

For more information, see 3-2120: Recording Abuse-Specific Complaints, and WIC, sections 15630.1 and 15631.

Continued on next page

3-2105: Mandated Reporting, Continued

How to recognize abuse: elders and dependent adults

The table below provides potential indicators of dependent adult and elder abuse.

Category of Signs of Abuse	Signs of Abuse
Physical (unexplained)	<ul style="list-style-type: none"> • weight loss • malnutrition • untreated dental problems • dehydration • bedsores
Physical (physical injuries)	<ul style="list-style-type: none"> • bruises • skin damage • broken bones • unseen injuries (painful when touched)
Behavioral	<ul style="list-style-type: none"> • agitation • anger • anxiety • confusion/disorientation • defensiveness • depression • fear • helplessness • hesitation to talk openly • implausible stories • non-responsiveness • withdrawal

In addition to the signs in the table above, the caregiver may

- not give elder the opportunity to speak for himself or herself
- not assist the person in care when needed
- display attitudes of indifference or anger toward the person in care
- isolate or restrict the activity of person in care
- provide conflicting accounts of incidents, and/or
- show signs of substance abuse.

Continued on next page

3-2105: Mandated Reporting, Continued

Processing the SOC 341 form

The table below shows the steps the investigating LPA or CCIB Analyst will take to complete the Report of Suspected Dependent Adult/Elder Abuse (SOC 341) in cases concerning suspected abuse of a dependent adult or an elder.

For more information on specific reporting timeframes, see 3-2122: Recording Dependent Adult and Elder Abuse Complaints.

Step	Action
1	Complete the SOC 341 using information from reporting party.
2	If the report was completed by another party, ask about and verify the information entered.
3	Discuss and review the report with the Licensing Program Manager (LPM).
4	Make a verbal report to Ombudsman or local law enforcement.
5	Send the SOC 341 within two working days of the oral report.
6	Mail reports to the appropriate agencies and update the facility file.

Authority: WIC, sections 15630, 15630.1(d)(2), and 15631. CCR, Title 22, Sections 80061, 81061, 82065, and 87211.

Examples of abuse: children

Examples of child abuse include

- Physical injury which is not accidental
- Assault
- Intentional neglect
- Malnutrition
- Lack of necessary and basic physical care
- Unlawful corporal punishment
- Harm or threatened harm to health or welfare by the caregiver
- Endangerment
- Sexual abuse
- Exploitation
- Willful mental injury, negligent treatment, or maltreatment

For more information, see 3-2120: Recording Abuse-Specific Complaints, and Penal Code, sections 11165.1, 11165.2, 11165.3, and 11165.4.

Continued on next page

3-2105: Mandated Reporting, Continued

How to recognize abuse: children

The table below provides indicators of child abuse.

Category of Signs of Abuse	Signs of Abuse
Physical (unexplained)	<ul style="list-style-type: none"> • nightmares/sleep problems • money/toys/gifts • change in eating habits
Physical (physical injuries)	<ul style="list-style-type: none"> • bruises • fractures • burns • poor hygiene • poor growth • weight gain • injuries that don't match the given explanation
Behavioral	<ul style="list-style-type: none"> • mood swings (rage, fear, insecurity, etc.) • distracted/distant at odd times • talks about a new older friend • feelings of guilt • feelings of shame • developmentally inappropriate knowledge or behavior

In addition to the signs in the table above, the caregiver may

- appear unable to recognize child's physical or emotional distress
- consistently blame, belittle or berate the child
- describe the child negatively
- offer conflicting or unconvincing explanations for the injuries, and/or
- provide insufficient medical or dental treatment.

Continued on next page

3-2105: Mandated Reporting, Continued

Processing the SS 8572 form When an individual makes a report of suspected child abuse, the complaint intake staff will complete the steps in the table below to process the Suspected Child Abuse Report (SS 8572).

Step	Action
1	A SS 8572 report has been completed by another party, ask for a copy.
2	The verified copy of the SS 8572 report is then filed in the facility file.
3	Make a telephone report to local law enforcement or Child Protective Services as soon as possible.
4	If another party has not yet completed a verifiable report, take the reporting party's information, and complete the SS 8572 report.
5	Discuss and review with the LPM.
6	Send reports to the applicable agency (such as police, sheriff, county welfare department) within 36 hours .

Following up on the mandated report The table below shows the procedure for licensing staff following up an abuse report with a Complaint Report (LIC 802).

Step	Action
1	Document complaint information on the LIC 802.
2	Note on the LIC 802 whether a SOC 341 or SS 8572 has been filed.
3	If available, attach a copy of the SOC 341 or SS 8572.
4	Add cross-report information in FAS.
5	Process as a priority complaint.

Continued on next page

3-2105: Mandated Reporting, Continued

Additional information on mandated reporting

The table below provides additional sources for specific information about mandated reporting.

Case Type	Reference
Dependent Adult and Elder abuse cases	<ul style="list-style-type: none"> • Statement Acknowledging Requirement to Report Suspected Abuse of Dependent Adults and Elders (PS 314) • The following documents at the Department of Justice website (http://ag.ca.gov/bmfea/): <ul style="list-style-type: none"> ○ “Your Legal Duty – Reporting Elder and Dependent Adult Abuse” ○ “Mandated Reporter Flow Chart,” and ○ the associated training curriculum
Child Care abuse cases	Reference Material for Reporting Requirements, 4-1100: Child Abuse Reporting Requirements for Child Care Facilities

For more information on mandated reporters, see Penal Code, sections 11165.7 and 11166. For more information on reporting agencies, see WIC, section 15630.

3-2110: Recording a Complaint

Overview

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3-2111: Gathering Complaint Information

Allegations must be licensing violations

A complaint must **not** be written up unless a licensing violation – including conduct inimical to the health, morals, welfare or safety of a person in care – is alleged. Even if the alleged event is found to have occurred, if it does not violate any licensing statute or regulation, it is not a complaint.

The complaint intake staff must ask the complainant specific questions during the intake process to determine whether the allegations of the complaint are a licensing violation. Intake analysts verify the **allegation** of a complaint, not that the event occurred.

Note: All allegations must be written clearly and concisely, so anyone reading the Complaint Report (LIC 802) understands that a statute or regulation has allegedly been violated.

Intake questions

During the initial contact with a complainant, complaint intake staff, while documenting the complaint, ask questions to obtain specific information from the complainant and determine how the alleged incident occurred.

Questions must vary depending on the nature of the complaint. The table below shows the types of questions that are typically asked of the complainant during the intake process.

Question Type	Information to Obtain
Who	<ul style="list-style-type: none"> • Complainant’s name • Complainant’s contact information • Who was present during the incident(s)? • How many persons in care were affected by the incident(s)?
What	<ul style="list-style-type: none"> • What was seen that prompted the complaint? • Any abuse, injuries, and medical attention received • Ages of all persons in care involved
Where	<ul style="list-style-type: none"> • Local information • Facility name and address • Facility number (if available)
When	<ul style="list-style-type: none"> • Date/date range or sequence when the incident(s) took place • When did the incident(s) become known to the complainant? • Has the incident occurred before? If so, how often?

For more information regarding the recording of a complainant’s confidential information, see 3-2103: Complainant Confidentiality.

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3-2111: Gathering Complaint Information, Continued

Violations that are not allegations

When, in the course of complaint intake, Department staff discover evidence of a violation that is not part of the allegations of the complaint, this information must be recorded on a Detail Information Supportive (LIC 812) form which is then attached to the LIC 802. This allows the investigating Licensing Program Analyst (LPA) to handle the non-allegation violation as a separate case management issue.

Example: The table below provides a step-by-step example of recording information which may be a violation, but which is not part of the complaint.

Step	Action
1	During intake of a complaint, the intake analyst notices that a staff member mentioned in the complaint has not been fingerprinted by the facility as required.
2	The intake analyst is aware that the complaint, as recorded on the LIC 802, has two allegations: <ul style="list-style-type: none"> • children were not supervised during play periods, and • staff argued in front of children in care.
3	Since none of the allegations in the complaint address the lack of fingerprints in staff records, the intake analyst attaches a LIC 812 to the LIC 802 and notes the missing fingerprints for later review by the LPA assigned to the complaint case.

Requirement: Priority 1 and 2 complaints

Important! The Centralized Complaint and Information Bureau Analyst or LPA must inform management of all Priority 1 and 2 complaints. These complaints are considered top priority and are to be handled expeditiously.

3-2112: Completing a Complaint Report (LIC 802)

Components of LIC 802

The graphic below shows the components of the Complaint Report (LIC 802) form.

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY
COMPLAINT REPORT
 This form is intended to document complaints received in the licensing office. Unless the complaint is considered harassment or is without any reasonable basis, an on-site inspection must be conducted within 10 calendar days after receipt of the complaint.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
 COMMUNITY CARE LICENSING DIVISION
 CCLD Regional Office,
 CA

REPORT
 REPORTED IN PERSON BY LETTER BY EMAIL BY TELEPHONE

IB REFERRAL Priority No: []

REGIONAL OFFICE [] INSPECTION DUE DATE [11/14/2022 16] CONTROL NUMBER []

COMPLAINANT INFORMATION
 COMPLAINANT NAME []
 ADDRESS [] STREET []
 CITY [] ZIP CODE []
 TELEPHONE NUMBER (DAY) [] TELEPHONE NUMBER (EVENING) []
 EMAIL ADDRESS []
 RELATIONSHIP / INVOLVEMENT WITH FACILITY []

FACILITY INFORMATION
 TYPE OF FACILITY [] FACILITY FILE NUMBER []
 FACILITY NAME []
 ADDRESS [] STREET []
 CITY [] ZIP CODE []
 TELEPHONE NUMBER []
 EMAIL ADDRESS []

Complaint Code Legend
 WAS ABUSE REPORT REQUIRED AND FILED? YES NO
 DOES COMPLAINANT WISH TO REMAIN ANONYMOUS? YES NO

NATURE OF COMPLAINT (Separate complaint into specific allegations and assign one of the following complaint codes.)
 1. Physical Abuse/Corporal Punishment 6. Crimes 11. Food Service 16. Qualifications 21. Reporting Requirements
 2. Sexual Abuse 7. Physical Plant 12. False Statements 17. Financial Issues 22. Admission Agreement
 3. Personal Rights 8. Record Keeping 13. Medication 18. Questionable Death 23. Ratio
 4. Unlicensed Care 9. License 14. Financial Abuse 19. Other 24. Conduct Inimical
 5. Fire Clearance 10. Neglect/Lack of Supervision 15. Level of Care 20. Criminal Record Clearance 25. Eviction/Discharge
 26. Manual Restraint

Do not enter more than 3 lines in the input boxes below

COMPLAINT CODE	ALLEGATIONS	RESOLUTION CODE		
		S	US	U
1		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Important! The *IB REFERRAL* box in the upper right **must** be checked on the LIC 802 when a complaint is referred to the Investigations Branch.

Continued on next page

3-2112: Completing a Complaint Report (LIC 802), Continued

Filling out a Complaint Report

Complaint intake staff at the Centralized Complaint and Information Bureau (CCIB) or the Regional Office (RO) begin the process for completing the LIC 802 by following the steps shown in the table below.

Step	Action
1	Determine and complete the priority information. For more information, see 3-2130: Determining Priority Levels. Important! The complaint receipt date must reflect the date the complaint was actually received.
2	Fill out the <i>Report</i> section.
3	State each allegation in the spaces provided. Each allegation must have its own separate entry.
4	Leave the <i>Complaint Code</i> field for each allegation blank. Note: The investigating Licensing Program Analyst (LPA) shall ensure that each complaint code is filled in correctly; normally, the Licensing Program Manager (LPM) in the RO assigns the complaint code when the LIC 802 is approved after the investigation is closed.
5	Review the investigation due date field, which is auto-populated in the Field Automation System (FAS) version of the LIC 802, to ensure the investigation due date reflects no more than ten calendar days from the complaint receipt date, as required by statute.

Note: The final steps to complete the LIC 802 are completed by the investigating LPA. For more information, see 3-2502: Complaint Report (LIC 802).

The LIC 802 details/description section

The details of allegation(s)/description of incident(s) entered in an LIC 802 must accurately document the elements and allegations of the complaint. This requirement may cause the CCIB Analyst to amend the complainant’s initial narrative of the allegation upon further investigation.

Important! The CCIB Analyst must retain the initial statements of the complainant, even if those statements are later amended. Doing so allows a historical record of the allegation(s) to exist for reference by investigators handling the case.

Continued on next page

3-2112: Completing a Complaint Report (LIC 802), Continued

**Example:
LIC 802
details/
description**

The table below provides a step-by-step example of a how a CCIB Analyst receives a complaint by telephone and translates the details of the call to possible statutory/regulatory violations to be noted on the LIC 802 form in the Details of Allegation(s)/Description of Incident(s) section.

Step	Action
1	A complainant calls to inform the agency about “poor care” in a facility.
2	The complainant articulates the details of the allegations to the CCIB Analyst.
3	The CCIB Analyst analyzes the complaint and determines that the problem(s) may be <ul style="list-style-type: none"> • lack of supervision • untrained staff, and/or • verbal abuse of persons in care.

**Complaint
codes (1 of 2)**

On the LIC 802, **complaint codes** are used to indicate the nature of each allegation in the complaint, for tracking purposes. The code numbers, which are entered in the “code column” for each allegation, indicate the category of the allegation, as shown in the table below.

Code Number	Category of the Allegation
1	Physical Abuse/Corporal Punishment
2	Sexual Abuse
3	Personal Rights
4	Unlicensed Care
5	Fire Clearance
6	Crimes
7	Physical Plant
8	Record Keeping
9	License
10	Neglect/Lack of Supervision
11	Food Service
12	False Statements

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3-2112: Completing a Complaint Report (LIC 802), Continued

Complaint codes (2 of 2)

On the LIC 802, **complaint codes** are used to indicate the nature of each allegation in the complaint, for tracking purposes. The code numbers, which are entered in the “code column” for each allegation, indicate the category of the allegation, as shown in the table below.

Code Number	Category of the Allegation
13	Medication
14	Financial Abuse
15	Level of Care
16	Qualifications
17	Financial Issues
18	Questionable Death
19	Other
20	Criminal Record Clearance
21	Reporting Requirements
22	Admission Agreement
23	Ratio
24	Conduct Inimical
25	Eviction/Discharge
26	Manual Restraint

Conditions for using Code 19 “Other”

On the LIC 802, in the complaint code field for each allegation, **Code 19 “Other”** may be used for complaints that describe violations of the **Health and Safety Code (HSC), Title 22 of the California Code of Regulations, or other applicable law**, and that do not fit in any of the other **complaint codes**.

Continued on next page

3-2112: Completing a Complaint Report (LIC 802), Continued

Using Code 24 “Conduct Inimical”

On the LIC 802, in the complaint code field for each allegation, **Code 24 “Conduct Inimical”** must only be used as indicated in statute or Interim Licensing Standards (ILS), and not as a “catch all” category for general noncompliance.

For more information when applying “conduct inimical” to a complaint allegation, see HSC, sections 1550(c), 1558(a), 1568.082(a), 1568.092(a), 1569.50(a), 1569.58(a), 1596.885, and 1596.8897(a); ILS, Sections 88201(c)(4) and 87001(c)(10).

Assigning a complaint code

On the LIC 802, the LPM assigns a complaint code for each allegation when the complaint investigation has been completed.

Note: The sequence of when complaint codes are assigned – before or after the complainant has been notified of the determination in the case – may be at the discretion of the Program Office, the RO, or even the individual LPM, depending on the needs, practices, and circumstances in the field. The LPM must consult their Regional Manager for guidance on the preferred protocol, which may be influenced by legal requirements for specific facility types.

Example: For cases involving a Residential Care Facility for the Elderly (RCFE), HSC section 1569.35(d) requires that the Department notify the complainant in writing of the Department’s determination regarding each of the allegations within **ten business days** of completion of a complaint investigation. For RCFEs, the LPM normally must set the codes before notification. If the LPM has not assigned complaint and resolution codes as this time period elapses, it is the LPA’s responsibility to follow up with their manager and ensure the code(s) is entered so that the applicable Complaint Determination Notification form(s) (LIC 856B, C, and/or D) can be generated and sent to the complainant in a timely manner.

Adding new information to the LIC 802

If, in the course of an investigation, the complainant reveals additional information that may be relevant to the case, then the LPA must either

- document this information on the LIC 802 under “Details of Allegation(s)/Description of Incident(s)”, or
- document this information on a Detail Supportive Information (LIC 812) form attached to the LIC 802.

Continued on next page

3-2112: Completing a Complaint Report (LIC 802), Continued

Modifying the LIC 802

Information on a completed LIC 802 may be amended. However, any modification to the LIC 802 must be approved by the LPM.

Note: It is **not** necessary for the LPA in the RO to contact CCIB to amend the LIC 802.

Law enforcement involvement in a complaint

If law enforcement back-up is necessary in a complaint case, this must be noted on the LIC 802.

Complainant mandated reporters

If the complainant is a mandated reporter and the complaint allegation pertains to abuse, the complaint intake staff must ask the complainant if they have filed either of the following reports:

- Report of Suspected Dependent Adult/Elder Abuse (SOC 341)
- Suspected Child Abuse Report (SS 8572).

For more information, see 3-2105: Mandated Reporting.

3-2120: Recording Abuse-Specific Complaints

Overview

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3-2121: Recording Abuse Complaints

Special procedures for abuse complaints

Complaints alleging abuse are unique and require additional steps to ensure all relevant and accurate information has been captured and recorded. When the complainant alleges abuse, the complaint intake staff must remember to capture the essential information for filing the required reports of suspected abuse.

Receiving an abuse complaint

When a complaint alleging abuse is filed, the Centralized Complaint and Information Bureau (CCIB) Analyst or other complaint intake staff at the CCIB must send an email message to alert

- the Regional Manager, and
- all managers in the Regional Office.

Documenting abuse

The table below shows how the CCIB Analyst and other complaint intake staff must document an allegation that includes abuse.

If ...	Then ...
the allegation is regarding abuse	the complaint intake staff must ask the complainant if they filed an abuse report or if one needs to be completed and filed by the complaint intake staff.
the complainant has filed an abuse report	the complaint intake staff <ul style="list-style-type: none"> • does not need to file an abuse report • checks the <i>YES</i> box for “WAS ABUSE REPORT REQUIRED AND FILED?” on the Complaint Report (LIC 802), and • obtains the abuse report from the complainant and files a cross-report.
the complainant has not filed an abuse report, but the CCIB Analyst or other complaint intake staff suspects abuse	the complaint intake staff <ul style="list-style-type: none"> • files an abuse report • checks the <i>YES</i> box for “WAS ABUSE REPORT REQUIRED AND FILED?” on the LIC 802, and • files a cross-report.

Continued on next page

3-2121: Recording Abuse Complaints, Continued

Questions to ask when receiving a complaint

When completing the LIC 802 for complaints alleging abuse, the CCIB Analyst or other complaint intake staff must consider the following questions and place the correct answers into the report:

- What agencies (for example, law enforcement) have been notified of the abuse?
 - Was the victim injured? Was the victim taken to a physician or hospital? When did these things occur?
 - Are there photographs available of the resulting injuries?
-

Documenting details of the allegation

If additional space is needed for details/description when completing a LIC 802, the CCIB Analyst or other complaint intake staff must use a Detail Supportive Information (LIC 812) form, attached to the LIC 802.

When the complainant is unable to provide details

A CCIB Analyst or other complaint intake staff must always note on the LIC 802 if the complainant is unable to provide specific details.

Noting this on the report serves to document that the information was requested of the complainant, even though the details were not supplied.

3-2122: Recording Dependent Adult and Elder Abuse Complaints

Statutory reporting requirements

In compliance with Welfare and Institutions Code section 15630, when a Centralized Complaint and Information Bureau (CCIB) Analyst or other licensing staff observe or suspect abuse against an elder or dependent adult in an adult or senior licensed facility, the CCIB Analyst or licensing staff must

- complete the Report of Suspected Dependent Adult/Elder Abuse (SOC 341), and
- report the suspected abuse, as required the applicable “Reporting Requirements” regulations. **Authority:** California Code of Regulations, Title 22, Sections 80061, 80065, 81061, 81065, 82061, 82065, 87211, 87413, 87861, or 87865.

Licensed adult or senior facilities include any

- Adult Day Program
- Adult Residential Facility
- Adult Residential Facility for Persons with Special Health Care Needs
- Community Crisis Home
- Enhanced Behavioral Support Homes
- Residential Care Facilities for the Chronically Ill
- Residential Care Facility for the Elderly, or
- Social Rehabilitation Facility.

Report of Suspected Dependent Adult/Elder Abuse (SOC 341)

The SOC 341 is confidential and may be completed by the individual making the report. It is used to report incidents that are

- perpetrated by others (abuse which is physical, sexual, financial, neglect, abandonment, isolation, abduction, or psychological/mental), or
- which constitute self-neglect (poor physical or medical care, health and safety hazards, malnutrition, or financial self-neglect).

Use of the SOC 341 is intended for mandated reporters who are required by law to report suspected abuse. For more information, see Welfare and Institutions Code (WIC), section 15630.

Note: If the suspected abuse report was not filed by the reporting party, the CCIB Analyst or other complaint intake staff must complete the SOC 341.

Continued on next page

3-2122: Recording Dependent Adult and Elder Abuse Complaints, Continued

Filing the SOC 341: Exception

The CCIB Analyst or other complaint intake staff must file any SOC 341, unless another person has already completed the report in accordance with the WIC, section 15630(d).

When the licensee completes the SOC 341

When a licensee completes an SOC 341, this is considered an admission of the occurrence, and must be treated as an incident and not as a complaint.

Abuse resulting in serious bodily injury (RCFE only)

When suspected physical abuse at a Residential Care Facility for the Elderly (RCFE) results in serious bodily injury, a telephone report **and** a written report are required as shown in the table below.

Report Type	Provided To	Report is Made
telephone	the local law enforcement agency	immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse
written (USPS mail, email, and/or fax)	<ul style="list-style-type: none"> • the local law enforcement agency • the local ombudsman, and • the corresponding licensing agency (usually, the Department of Social Services) 	within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse

For more information on this requirement, see WIC, section 15630(b)(1)(A)(i).

Continued on next page

3-2122: Recording Dependent Adult and Elder Abuse Complaints, Continued

Abuse not resulting in serious bodily injury (RCFE only)

When suspected physical abuse at an RCFE **did not** result in serious bodily injury, a telephone **and** written report are required as shown in the table below.

Report Type	Provided to	Report Must Be Made
telephone	the local law enforcement agency	within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse
written (USPS mail, email, and/or fax)	<ul style="list-style-type: none"> • the local law enforcement agency • the local long-term care ombudsman, and • the corresponding licensing agency (usually, the Department of Social Services) 	within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse

For more information on this requirement, see WIC, section 15630(b)(1)(A)(ii).

Continued on next page

3-2122: Recording Dependent Adult and Elder Abuse Complaints, Continued

Physical abuse with dementia (RCFE only)

If suspected physical abuse at an RCFE is allegedly caused by a person in care with a physician’s diagnosis of dementia and does not result in serious bodily injury, a telephone **and** written report are required as shown in the table below.

Note: Serious bodily injury is reasonably determined by the mandated reporter. This means that the mandated reporter is drawing upon training or experience to determine whether serious bodily injury has occurred. Reports are made to the local Long-Term Care Ombudsman or law enforcement agency.

Report Type	Provided to	Report Must Be Made
telephone	the local law enforcement agency	immediately, or as soon as practically possible
written (includes USPS mail, email, and fax)	<ul style="list-style-type: none"> • the local law enforcement agency • the local long-term care ombudsman, and • the corresponding licensing agency (usually, the Department of Social Services) 	within 24 hours

For more information on this requirement, see WIC, section 15630(b)(1)(A)(iii).

Continued on next page

3-2122: Recording Dependent Adult and Elder Abuse Complaints, Continued

Non-physical abuse (RCFE only)

If suspected or alleged abuse at an RCFE is abuse other than physical abuse, a telephone **and** written report are required as shown in the table below.

Note: Reports are made to the local Long-Term Care Ombudsman or law enforcement agency.

Report Type	Provided to	Report Must Be Made
telephone	the local law enforcement agency	immediately or as soon as practically possible
written (includes USPS mail, email, and fax)	<ul style="list-style-type: none"> • the local law enforcement agency • the local long-term care ombudsman, and • the corresponding licensing agency (usually, the Department of Social Services) 	within 2 working days

For more information on this requirement, see WIC, section 15630(b)(1)(C).

Continued on next page

3-2122: Recording Dependent Adult and Elder Abuse Complaints, Continued

Abuse reporting (RCFCI only)

When a mandated reporter observes or becomes aware of suspected abuse at a Residential Care Facility for the Chronically Ill (RCFCI), the abuse must be reported as shown in the table below.

Report Type	Provided To	Report Must Be Made
telephone	<ul style="list-style-type: none"> • Adult Protective Services, or • the local law enforcement agency 	immediately, or as soon as practically possible
report through a confidential Internet reporting tool	<ul style="list-style-type: none"> • Adult Protective Services, or • the local law enforcement agency 	immediately, or as soon as practically possible

Important! Reports made via telephone must be followed up by a written report or internet reporting tool report within two days. An RCFCI is not defined as a long-term care facility in accordance with WIC section 15610.47.

- Follow-up written reports must be submitted to Adult Protective Services or local law enforcement.
- Reports made using the confidential internet reporting tool do not require any additional steps or reporting once the report has been submitted. The confidential internet reporting tool requirement is established in WIC section 15658.

For more information, see WIC, section 15630(b)(1)(F).

3-2123: Recording Child Abuse Complaints

Child abuse reporting

Whenever complaint intake staff suspects abuse against a minor, a Suspected Child Abuse Report (SS 8572) must be completed, unless another party is verified to have already reported the suspected abuse, in which case the need to report by intake staff is exempted. See Penal Code, section 11166(h).

Important! A copy of the completed SS 8572 must be submitted to law enforcement or Child Protective Services, depending on which agency was initially informed by the Licensing Program Analyst or Centralized Complaint and Information Bureau Analyst.

Chapter 3 Regional Office Complaint Process

Overview

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3-2130: Determining Priority Levels

Overview

Contents

It is the responsibility of the staff completing the intake to determine the Priority Level of the complaint. This may be the Centralized Complaint and Information Bureau or the Regional Office.

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3-2131: Priority Level 1

What is a Priority 1 complaint?

A complaint Priority Level 1 means the alleged behavior **seriously endangers** the health and/or safety of persons in care.

Note: The suspect may or may not be an individual associated with the facility (including the licensee, staff, relatives of licensee, or an unknown perpetrator).

Important! All Priority Level 1 and 2 complaints are referred to the Investigations Branch (IB). IB may determine whether to accept a particular referred case, or to return the referral to the Regional Office (RO). For more information, see 3-2150: Referring a Case from the Regional Office to Investigations Branch.

Priority 1: sexual abuse

Complaints of sexual abuse are assigned Priority Level 1 when the incident involves the penetration of the genitals, anus, or mouth of any of the persons involved and

- Intent of sexual gratification for at least one of the parties involved
- The suspect may or may not be associated with the facility.
- The victim is a person in care or the alleged sexual conduct poses a potential health and safety risk for persons in care.
- The abuse is alleged to have occurred in the facility or while the person in care was under the care and supervision of the licensee or staff.

This category includes, but is not limited to, rape, oral copulation, sodomy, or use of a foreign object with intent of sexual gratification for at least one of the parties involved.

Priority 1: physical abuse

Complaints of physical abuse are assigned Priority Level 1 when the incident involves intentional acts such as assault and/or battery that result in great bodily injury and

- the victim is a person in care or the alleged physical abuse poses a potential health and safety risk for persons in care.
- the abuse is alleged to have occurred in the facility or while the person in care was under the care and supervision of the licensee or staff.

Examples: Broken bones, lacerations resulting in surgery, head injuries, and severe burns.

Continued on next page

3-2131: Priority Level 1, Continued

**Priority 1:
death**

Complaints or Death Reports alleging suspicious circumstances regarding the death of a person in care are Priority Level 1. These deaths are:

- in or out of the facility
- unnatural with indications of neglect or lack of supervision and/or foul play, and/or
- a result of neglect/lack of care and supervision by the licensee/administrator and/or staff.

Note: A complaint relating to a death report in which the death is natural and there is no indication of neglect or lack of care and supervision is assigned Priority Level 3 and handled by the RO.

**Priority 1:
neglect/lack of
care and
supervision**

Complaints of neglect/lack of care and supervision are assigned Priority Level 1 when the incident results in sexual abuse, physical abuse or serious injury to a person in care as defined in this section. This includes

- major injury to a person in care (can be between persons in care)
- sexual assault (can be between persons in care)
- severe malnutrition, dehydration, hypothermia, etc., and
- failure to seek timely medical attention for serious injury or which resulted in serious harm/injury.

Note: A staff member engaging in sexual acts with an adult person in care, regardless if it was consensual, is prohibited.

Authority: Health and Safety Code, sections 80072(a)(3), 81072(a)(3), 82072(a)(3), 87468.2(a)(3), and 87872(a)(3). For more information, see Penal Code, sections 288 and 518.

Continued on next page

3-2131: Priority Level 1, Continued

Priority 1: unlicensed operation

Complaints of unlicensed operation are assigned Priority Level 1 when they involve other Priority Level 1 allegations, such as

- denial of entry to Community Care Licensing staff
- physical or sexual abuse
- death
- neglect/lack of care, or
- alleged criminal activity.

Note: The Licensing Program Analyst must make an initial inspection attempt **before** referring the case to the IB. If entry is denied, the case is referred to the IB.

Priority 1: drug activity

Complaints of drug activity are assigned Priority Level 1 when a complainant alleges that the licensee, staff, and/or others residing or present at the facility are

- providing, using, selling, or manufacturing drugs (other than marijuana and alcohol) that may result in felony offenses, or
- contributing alcohol/marijuana to the delinquency of a minor.

Drugs that may result in felony offenses include methamphetamine, cocaine, heroin, psychedelics, LSD, and PCP.

Priority 1: pressure injuries

Complaints of pressure injuries (decubitus ulcers) are assigned Priority Level 1 when the extent of the injuries is so severe they are either unstageable or are stage 3 or above, and

- there is **no** Home Health Aide (HHA) or Hospice care provided, or
- care practices are questionable and/or neglect is suspected (for example: a person in care has no care plan, or staff are not following an existing care plan).

Note: The RO must indicate at the time of referral whether or not HHA or Hospice care is being provided.

Priority 1: use of restraints

Complaints of restraints are assigned Priority Level 1 when the restraint results in serious bodily injury or death.

Continued on next page

3-2131: Priority Level 1, Continued

**Priority 1:
infringement
of personal
rights**

Complaints of personal rights infringement are assigned Priority Level 1 when an act upon a person in care results in suffering, great bodily harm, or death (not necessarily involving an injury), but with the **intent** to harm.

**Priority 1:
conduct
inimical**

Complaints of **conduct inimical** are considered Priority Level 1 when the conduct rises to serious criminal behavior or action.

This includes acts such as assault and/or battery that, if successful, would result in death or great bodily injury. These complaints may include, but are not limited to

- a licensee or facility staff firing a weapon at a person in care
 - use of an object or weapon on a person in care that could inflict death or great bodily injury, or
 - felony offenses (such as robbery, arson, grand theft, or use of chemical restraints) by the licensee, a facility employee, a volunteer, another person in care, or an unidentified suspect.
-

**Priority 1:
registered sex
offender**

The IB is responsible for handling all Registered Sex Offender (RSO) complaints originating from the monthly extract. All RSO complaints are assigned Priority Level 1.

For information on **non-extract** RSO complaints, see 3-2133: Priority Level 3.

3-2132: Priority Level 2

What is a Priority 2 complaint?

A complaint Priority Level 2 means the alleged behavior **endangers** the health and safety of children or other persons in care.

Important! All Priority Level 1 and 2 complaints are referred to the Investigations Branch (IB). IB may determine whether to accept a particular referred case, or to return the referral to the Regional Office. For more information, see 3-2150: Referring a Case from the Regional Office to Investigations Branch.

Priority 2: sexual abuse

Complaints of sexual abuse are assigned Priority Level 2 when the incident involves sexual behavior (excluding penetration) and

- the victim is a person in care or the alleged sexual conduct poses a potential health and safety risk to a person in care, and
- the abuse is alleged to have occurred in the facility or while the person in care was under the care and supervision of the licensee or staff.

Examples: Voyeurism, masturbation, exhibitionism, exploitation, inappropriate sexual touching, and/or fondling.

Note: The suspect may or may not be an individual associated with the facility – such as the licensee, staff, or a relative of the licensee – or an unknown perpetrator.

Priority 2: physical abuse (multiple minor injuries)

Complaints of physical abuse are Priority Level 2 when the complaint alleges intentional acts causing egregious or multiple minor injuries and

- the victim is a person in care or the alleged physical abuse poses a potential health and safety risk to a person in care, and
- the abuse is alleged to have occurred in the facility or while the person in care was under the care and supervision of the licensee or staff.

Examples: Multiple minor injuries such as bruises, cuts requiring stitches, scrapes, and burns.

Note: The suspect may or may not be an individual associated with the facility – such as the licensee, staff, or a relative of the licensee – or an unknown perpetrator.

Continued on next page

3-2132: Priority Level 2, Continued

**Priority 2:
neglect/lack of
care and
supervision**

Complaints of lack of care and supervision are assigned Priority Level 2 when the incident results in

- non-consensual sexual contact (without penetration of the genitals, anus, or mouth) between two persons in care as defined in “Priority 2: sexual abuse”, or
- egregious/multiple injuries (such as bruises or bites).

**Priority 2:
unlicensed
operation**

Complaints of unlicensed operation are assigned Priority Level 2 when entry has been denied to Community Care Licensing Division staff, but the complaint does not involve other Priority Level 1 allegations.

Note: The Licensing Program Analyst must make an initial inspection attempt **before** referring the case to the IB. If entry is denied, the case is referred to the IB.

**Priority 2:
pressure
injuries**

Complaints of pressure injuries (decubitus ulcers) are assigned Priority Level 2 when **at least one** of the following conditions is true:

- There are egregious stage 2 injuries.
- There are multiple stage 2 injuries.

Note: In this context, **egregious** stage 2 pressure injuries involve glaring acts of negligence resulting in injury. For example, injuries which are larger in size and on pressure point areas, indicating that the person in care was not properly rotated.

3-2133: Priority Level 3

What is a Priority 3 complaint?

A complaint priority Level 3 means the alleged behavior is concerning but **does not** immediately endanger the health and safety of persons in care.

Priority 3: physical abuse (minimal, minor, or no injuries)

Complaints of physical abuse with **minimal, minor, or no injuries** that do not meet the criteria of Priority Level 2 are assigned Priority Level 3 and handled by the Regional Office (RO).

Examples: Shoving or pushing with minimal or minor injuries, such as scratches and/or bruising.

Priority 3: neglect/lack of supervision

Complaints of lack of supervision are assigned Priority Level 3 when the allegation involves non-forced (consensual) sexual misconduct between persons in care.

Example: Persons in care engaging in sexual activity in such a way that it violates the rules of the facility, such as sexual activity in common areas or in plain sight of other persons in care.

Priority 3: misdemeanor offenses

Misdemeanor offenses may be assigned Priority Level 3. Allegations may be against a

- licensee
- facility employee
- volunteer
- other persons in care, or
- unidentified suspect.

Examples: Neglect, lack of supervision.

Note: For questions regarding what constitutes a misdemeanor offense, contact an enforcement attorney.

Continued on next page

3-2133: Priority Level 3, Continued

**Priority 3:
conduct
inimical**

The RO must handle complaints of **conduct inimical** when the conduct meets **one or more** of the following criteria:

- Questionable behavior that may or may not be criminal.
- Failure to report.
- Domestic violence that does not meet the criteria for Priority Level 1 or 2. For a definition of domestic violence, see Penal Code section 13700.

**Priority 3:
registered sex
offender**

Non-extract Registered Sex Offender (RSO) complaints are handled by the RO. The RO can check with the Investigations Branch RSO Analyst to conduct a preliminary check.

Note: Conducting a preliminary check does not require a service request; the RO can email the RSO Analyst directly.

**Priority 3:
restraints**

Complaints of restraints are assigned priority Level 3 when the restraint results in accidental or minor injuries.

**Priority 3:
personal
rights**

Complaints of personal rights are assigned Priority Level 3 when the alleged behavior does not result in injury (for example: yelling, pushing, grabbing, or name-calling).

**Priority 3:
pressure
injuries**

Complaints of pressure injuries (decubitus ulcers) are assigned Priority Level 3 when **at least one** of the following conditions is true:

- The extent of the injuries is stage 1 or 2 due to negligence of staff.
- The extent of the injuries is stage 3 or above, and
 - there **is** Home Health Aide (HHA) or Hospice care provided, and
 - care practices are not questionable and no neglect is suspected.

Note: The RO must indicate at the time of referral whether or not care is being provided by HHA or by Hospice.

**Priority 3: drug
activity**

Complaints of drug activity are assigned Priority Level 3 when the licensee, staff, or others residing or present at the facility are using or selling illegal drugs other than “felony” drugs.

Note: For questions regarding what constitutes a “felony” drug, contact an enforcement attorney.

3-2134: Priority Level 4

What is a Priority 4 complaint?

A complaint Priority Level 4 means the alleged behavior is concerning but **does not endanger** the health and safety of persons in care or children.

Priority 4: physical/corporal punishment

Complaints are assigned Priority Level 4 when they include

- physical/corporal punishment to persons in care (defined as spanking using the hand)
- lack of supervision that did not result in any abuse or injury
- unsanitary conditions, and
- other statutory/regulatory violations.

For more information on physical punishment, see Welfare and Institutions Code, section 18951, and Penal Code, section 11165 et seq.

For more information on spanking using the hand, see 223 Cal.App.4th 72 (2014) 167 Cal.Rptr.3d 148 ([GONZALEZ v. SANTA CLARA COUNTY DEPARTMENT OF SOCIAL SERVICES](#)).

Priority 4: person-on-person contact

Complaints of conduct between persons in care are assigned Priority Level 4 when they do not meet the criteria of Priority Levels 1, 2, or 3.

3-2150: Referring a Case from the Regional Office to Investigations Branch

Overview

Contents

The following Investigations Branch (IB) triage guidelines are designed to assist the IB and Regional Offices in establishing the priority of investigative casework.

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3-2151: Regional Office Responsibility

Determine Priority Level

The Regional Office (RO) will determine the Priority Level of the Complaint before referring a case to the Investigations Branch (IB).
For more information, see 3-2130: Determining Priority Level.

When to refer cases to IB

The following table provides guidelines for when to refer cases to the IB.

Case Level	Refer to IB?
Priority Level 1	Yes , even if law enforcement is in the process of investigating.
Priority Level 2	Yes , even if law enforcement is in the process of investigating. Note: IB may return some Priority 2 complaints to the RO for investigation.
Priority Level 3	Optional
Priority Level 4	No – Priority Level 4 allegations are handled by the RO.
Non-investigative	Yes , if the RO cannot obtain records.

IB may choose to accept the referral and

- investigate the complaint in its entirety, or
- provide technical assistance to the Licensing Program Analyst (LPA) to obtain reports or records (“on assignment only”).

Important! It is the responsibility of the Regional Manager (RM), or designated representative, to refer a case to IB as needed prior to initiating any action on a complaint.

Continued on next page

3-2151: Regional Office Responsibility, Continued

Non-county licensing referral procedures

All cases can be referred to the IB as needed when special circumstances arise. When the RO refers a case to IB, the RO will

- conduct the facility/FAS File Review
- complete the File Review form, and
- provide information/documents obtained to IB within **three** business days from IB acceptance.

Note: If the three-day timeframe cannot be met due to extenuating circumstances – such as when the LPA is out of the office or on vacation – the timeframe may be negotiated between the RO and IB.

Initiating the ten-day inspection

It is the responsibility of the LPA to initiate communication with the IB Investigator prior to the ten-day inspection to coordinate the inspection and/or identify and obtain necessary documentation.

Note: If a case has been referred to and accepted by Investigations Branch, then the required initial ten-day inspection **must** still be made within the ten-day time frame.

Important! For complaints involving Foster Family Agencies (FFAs), the ten-day inspection must be made to both the FFA **and** the Certified Family Home/Resource Family within the ten-day time frame.

If IB cannot make an inspection within ten days

If IB cannot make an inspection within the required ten calendar days, then the RO is ultimately responsible for making the inspection or determining that the case meets the criteria for postponement.

Authorize inspection postponement

It is Department policy that, regardless of who assumes responsibility for the case, the ten-day complaint inspection may only be postponed when authorized by the RM.

For more information, see 3-2172: Delaying the Investigation.

Continued on next page

3-2151: Regional Office Responsibility, Continued

Completing an IB Service Request

The RO must correctly state the specific allegation(s) or task(s) on the Service Request (IB 001) to the IB.

Stating the allegation(s) or task(s) is **not** the same as describing an incident in greater detail on a Complaint Report (LIC 802). When completing the Service Request, the details of the allegation must not be copied verbatim from the complaint description on the LIC 802.

Example: The graphic below shows incorrect and correct statements of an allegation.

Incorrect:

DETAILS OF ALLEGATION(S)/DESCRIPTION OF INCIDENT(S)
Child Sarah Smith (DOB: 5-15-00), age 15 alleges that Client (NMD) Paul Jones, age 18 sexually assaulted her against her consent while in the group home. Both clients initially denied having intercourse with each other on 5-22-15. On 5-28-15, during individual therapy, Client Sarah Smith disclosed that her previous denial was false and claimed that she was raped by Paul Jones.

Correct:

DETAILS OF ALLEGATION(S)/DESCRIPTION OF INCIDENT(S)
Client Paul Jones (DOB: 1-15-97) sexually assaulted Client Sarah Smith (DOB: 5-15-00).

Obtaining additional complaint information

When additional information is required to determine if a complaint meets the criteria required by the IB, the RO must obtain this additional information.

This information can be obtained from the facility via a phone call or during an initial inspection. IB will provide the minimal amount of general information to the RO when clarification is needed to determine acceptance.

Continued on next page

3-2151: Regional Office Responsibility, Continued

Submitting the LPA and LPM Checklist

The LPA and the Licensing Program Manager (LPM) must submit a checklist for complaint review to their respective supervisors. For more information, see 3-2752: Process to Close a Complaint.

Note: This is an internal form.

Regional Office responsibilities

The RO is additionally responsible to

- complete 24-hour safety checks (Adult and Senior Care)
- report fiduciary abuse (refer to Audits)
- address both witnessed and unwitnessed allegations where the RO can support a finding based on
 - the RO obtaining documents and/or statements
 - admission of the allegations, and/or
 - the complaint is unchallenged and/or is admitted.
- investigate unexplained bruises/minor injuries (not multiple/egregious), and
- handle the Report of Suspected Dependent Adult/Elder Abuse (SOC 341) and Suspected Child Abuse Report (SS 8572) referrals, where
 - the SOC 341 and/or SS 8572 report states that the injury is due to an unknown source
 - there is no indication of abuse or neglect other than the report, and
 - the injuries are minor (for example: no multiple or egregious injuries).

When law enforcement and IB are unavailable

If IB or a law enforcement agency is unable to conduct an investigation, the LPA will be required to assume primary responsibility for the complaint investigation, including an investigation involving

- serious physical abuse
- sexual assault, or
- suspicious death.

Continued on next page

3-2151: Regional Office Responsibility, Continued

**Triage
complaints
from CCIB**

When a Priority 1 or 2 complaint is reported to Centralized Complaint and Information Bureau (CCIB), CCIB does **not** refer the complaint to the IB. CCIB will contact the RO to report the complaint. The RO is responsible for referring the complaint to IB.

For more information, see 3-2131: Priority Level 1, 3-2132: Priority Level 2, 3-2150: Referring a Case from the Regional Office to Investigations Branch, and 3-2181: Cross-Reporting Complaints.

3-2152: Investigations Branch Responsibility

Accepting IB cases

The Investigations Branch (IB) will accept cases based on criteria, not based on investigator availability, unless a prior agreement has been made by the IB Chief and the Program Administrator.

Upon accepting a case, IB will determine the culpability of all staff (for example, lack of staff training), including the licensee.

Review of service requests

The designation of responsibility for the IB and the Regional Office (RO) shall be defined by the IB Specialist on the “Intake Section” of the Service Request. Responsibilities for IB and RO staff include the

- ten-day inspection
- assignment of allegations to be investigated
- tasks assigned, and
- file review.

The IB will clearly state on the Service Request the reason for a case return, if applicable.

Conduct of investigations

The Investigations Branch will investigate all contributing factors of the allegation.

Example: Did medication contribute to the condition or death?

Obtaining documentation on assignment

When a case is being handled by the RO and the RO is unable to obtain documents that are critical to the case, the IB may assist the RO by requesting to obtain these documents (a.k.a. “on assignment only”).

Examples: Police reports, medical records, coroner reports.

Addressing additional issues

It is the responsibility of the IB to address any additional issues requiring **minimal effort** that do not meet IB standards.

Examples:

- Photograph broken windows.
- Ask about personal rights allegations during line of questioning about alleged physical abuse.

Continued on next page

3-2152: Investigations Branch Responsibility, Continued

Submission of the final report to RO

IB will submit a final report to the RO for review.
 For additional information, see 3-2153: Dual Responsibilities of Investigations Branch and the Regional Office.
Note: The Licensing Program Analyst must confer with the Licensing Program Manager (LPM) before issuing a citation and delivering the findings and determination.

Accepting requested tasks

When the RO submits a Service Request to the IB, IB must respond and state all accepted tasks in writing. If the RO and IB disagree on case acceptance, the Intake Specialist (or designated person) will conduct a triage with the LPM or acting equivalent.
 If the disagreement is unable to be resolved, it must be elevated to both the Assistant Chief, Regional Manager and/or the Assistant Program Administrator.
Note: There may be instances where IB does not accept cases for a full investigation but will aid with specific assignments which require the skill set of an Investigator, such as assisting with the interviewing of victims or suspects when the interviews are sensitive in nature.

3-2153: Dual Responsibilities of Investigations Branch and the Regional Office

IB and RO investigation procedures

Important! This section outlines the responsibilities shared by both the Investigative Branch (IB) and Regional Office (RO) for Priority 1 and 2 complaints. Although the following criteria shall be considered standard procedure, the IB and RO must maintain discretion and flexibility to meet the Department’s mission statement and operational needs.

Referral process

The IB and RO must be available to complete the referral process within a 24-hour period from the referral being sent to the IB. If unavailable, a designated back-up must be identified.

Who conducts the triage?

The triage shall be conducted with the Intake Specialist or designated person and the Regional Manager or designated person.

Negotiating inspection timeframe

The RO and IB may negotiate who completes the ten-day site inspection.
Note: For complaints concerning a Foster Family Agency (FFA), ten-day inspections must be done at both the FFA **and** the associated Certified Family Home or Resource Family home within the ten-day time frame.

IB and RO roles when conducting the ten-day inspection

If the IB conducts the ten-day inspection, then the IB is responsible for file reviews of persons in care and facility staff at the facility.

If the RO conducts the ten-day inspection, the Licensing Program Analyst (LPA) or Complaint Specialist is responsible for

- completing file reviews of persons in care and facility staff, and
- providing all necessary documentation to the investigator **within three business days** from the ten-day inspection.

Note: If the three-day timeframe cannot be met due to extenuating circumstances (for example, the LPA is out of office, on vacation, etc.), the timeframe may be negotiated between the RO and IB.

Continued on next page

3-2153: Dual Responsibilities of Investigations Branch and Regional Office, Continued

Guidelines for Priority 1 and 2 referrals

All Priority 1 and 2 complaints are referred to the IB for acceptance.
Note: IB has established two referral mailboxes, one each for Northern and Southern California. LPAs must use the following email addresses when submitting a service request:

- Northern California: northern.referrals@dss.ca.gov
- Southern California: southern.referrals@dss.ca.gov

Note for Enhanced Civil Penalty cases

Enhanced Civil Penalty cases are not automatically referred to the IB. The allegation must meet the IB referral guidelines.

When the RO and IB disagree

If a disagreement occurs regarding the IB and the RO – such as case acceptance, determination, or additional work – the disagreement must be elevated to both the Assistant Chief and the Assistant Program Administrator.

Final report and release of determination

The following table provides guidelines for the RO and IB for submitting the final report.

Step	Action
1	IB completes the report.
2	IB submits the report to the RO.
3	RO agrees.
4	RO assesses the citations within ten days of receipt of the report from IB.
5	The LPA discusses the findings and determination with the Licensing Program Manager before releasing determination to the licensee or complainant.
6	RO notifies the licensee and complainant of the determination.

3-2170: Determining Time Frames and Delays

Overview

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3-2172: Delaying the Investigation	101

3-2171: Complaint Investigation Time Frames

Time requirement: complaint investigation

An initial complaint inspection must be made **within ten days** after receiving a complaint. If a complaint is submitted after business hours, then the following business day will be the date the complaint was received. The business day after the complaint is received, will be considered Day 1 of the investigation.

Note: If the inspection due date falls on a weekend or holiday, the Licensing Program Analyst (LPA) must conduct the on-site inspection by end-of-business on the business day **immediately preceding** the weekend or holiday.

Important! The LPA must exercise their best judgment and take immediate and appropriate action in cases of abuse.

Time requirement: death investigation

It is the Department's best practice to conduct a death investigation within two business days after receiving a complaint of a questionable death (death resulting from injury, abuse, or other than natural causes) of an adult or elderly person in care or **any** death of a child.

Example: A questionable death complaint is received on Monday at 7:30 p.m. The investigation must be conducted by Wednesday of the same week.

Note: If a questionable death complaint is received after hours, the time stamp determines when the two-business day timeframe begins.

Recording receipt of a complaint

The LPA or Centralized Complaint and Information Bureau Analyst recording a complaint must log the complaint immediately upon receipt to ensure that the inspection due date is accurate. A complaint received after business hours or on a holiday, must be logged for the following business day.

Example: A complaint filed on a Saturday is logged with the following Monday as the day the complaint was received. If that following Monday were a business holiday, then the complaint would be logged with the following Tuesday as the day the complaint was received.

Death reports for adult and senior care facilities

Important! When an incident report of a death at a care facility for adults or the elderly is received and it is not framed as a complaint, the LPA must enter the incident into the Community Care Licensing Division's intranet **Death Reporting System**.

Continued on next page



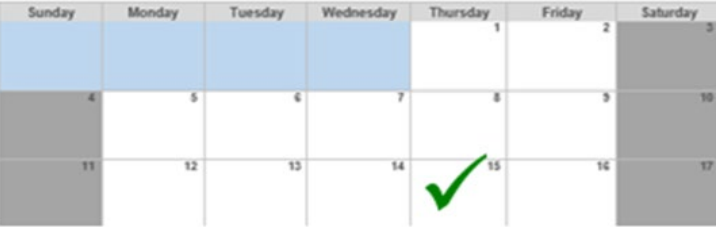
3-2171: Complaint Investigation Time Frames, Continued

Death reports for child care facilities

Important! When an incident report of a death is received for a child care facility and it is not framed as a complaint, the LPA must make a site inspection **within 24 hours**.

Example: calculating weekday inspection dates

The table below shows how to determine the due date of a complaint investigation when the tenth day after the complaint falls on a weekday.


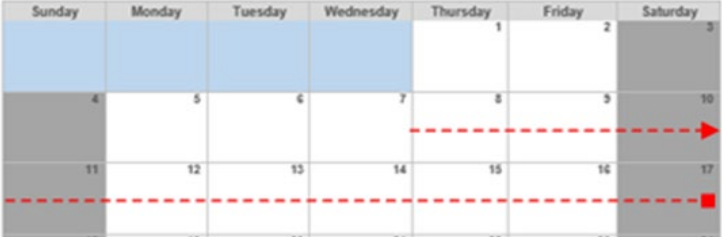

Step	Action
1	<p>A complaint is received on Monday the 5th.</p> 
2	<p>Count ten calendar days from Monday the 5th.</p> 
3	<p>The tenth calendar day falls on Thursday the 15th. The complaint on-site inspection must be made on or prior to Thursday the 15th.</p> 

Continued on next page

3-2171: Complaint Investigation Time Frames, Continued

Calculating weekend inspection dates

The graphic below explains how to determine the date of a complaint investigation when the tenth day falls on a weekend.

Step	Action
1	<p>A complaint is received on Wednesday the 7th.</p> 
2	<p>Count ten calendar days from Wednesday the 7th.</p> 
3	<p>The tenth calendar day falls on Saturday the 17th. Therefore, the complaint inspection must be made on or prior to Friday the 16th. This is the last business day within the ten-day timeframe.</p> 

3-2172: Delaying the Investigation

Authority for a delayed investigation

The Department has the authority to postpone the required ten-day complaint on-site inspection if the inspection would adversely affect the licensing investigation or the investigation of other agencies.

Authority: Health and Safety Code, sections 1538(c), 1568.071(c), 1569.35(c)(1), and 1596.853.

Process for postponing a complaint on-site inspection

A complaint on-site inspection is postponed by

- requesting Regional Manager (RM) approval
- initiating and maintaining documentation of the postponement, and
- conducting the inspection when later possible.

Note: Referring a case to Investigations Branch is not a valid reason, in and of itself, for delaying the complaint investigation.

Inspection postponement for an emergency or catastrophic event

In an emergency situation or catastrophic event, the RM may approve postponement of the ten-day complaint on-site inspection for any affected facilities, in order to support law enforcement and other emergency agencies in closure and/or evacuation efforts.

Note: Once an on-site inspection is postponed, the Licensing Program Analyst (LPA) must promptly notify the complainant of the Department’s new proposed course of action in the complaint case.

Postponement of an on-site inspection by the Regional Manager

The RM must postpone a complaint on-site inspection if they receive a request for postponement from law enforcement, or if the RM determines that the inspection would

- endanger the health and safety of persons in care
- increase the possibility of evidence being destroyed, or
- place victims or witnesses still in care in danger of
 - physical abuse
 - mental abuse, or
 - intimidation.

Note: If the facility is being investigated by law enforcement and it is requested that the licensing agency postpone the required ten-day complaint on-site inspection until the law enforcement investigation is complete, the RM or County Licensing Supervisor has the authority to delay the on-site inspection.

Continued on next page

3-2172: Delaying the Investigation, Continued

Notification of complainant when an inspection is postponed

If a ten-day complaint on-site inspection is postponed, the LPA must promptly notify the complainant of the Department’s updated timeline.

Note: When notifying the complainant of a postponed timeline in cases involving a Certified Family Home or Resource Family, the LPA must withhold full disclosure of the substance of the complaint in cases of alleged abuse or risk to persons in care. For more information, see 3-2401: Entrance Interview.

Steps to request a complaint site inspection postponement

The table below shows how the LPA requests and documents postponement of a ten-day complaint on-site inspection.

Step	Action
1	The LPA obtains RM approval for postponement of the on-site inspection.
2	The LPA documents the postponement by opening the Complaint Report (LIC 802) for the case, then creating a Detail Supportive Information (LIC 812) form.
3	The LPA updates the LIC 812 daily until the RM determines that the inspection can safely be resumed (typically, when the on-site inspection no longer adversely affects the licensing investigation or the investigations of other agencies).
4	Unless instructed otherwise by the RM, the LPA conducts the on-site inspection immediately after the inspection resumes, following complaint investigation procedures as documented in the Evaluator Manual.
5	The LPA documents the course of action (and RM instruction, if given) on the LIC 812, which is a part of this complaint’s documentation file.

3-2180: Cross-Reports and Consultations

Overview

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A Licensing Program Analyst at the Regional Office (RO) or an Analyst at the Centralized Complaint and Information Bureau (CCIB), may need to report the case to

- other agencies
- the appropriate law enforcement agency, and/or
- consult with experts and professionals in various fields.

Note: The analyst at CCIB or the RO must always consult with the CCIB Manager or Licensing Program Manager to determine which agencies will receive a cross-report.

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3-2181: Cross-Reporting Complaints

Cross-reporting to other agencies

In addition to law enforcement and the Long-Term Care Ombudsman, other agencies that a complaint may be cross-reported to include, but are not limited to

- Adult Protective Services
- California Department of Justice (Bureau of Medi-Cal Fraud and Elder Abuse)
- Child Care Local Resource and Referral Agency
- Child Protective Services
- Department of Developmental Services
- Department of Health Care Services, for Social Rehabilitation Facilities and Certified Treatment Facilities
- District Attorney
- juvenile officer (for children who are on probation)
- local law enforcement
- probation officer (for adults who are on probation), and
- the Regional Center.

Reporting child abuse

If the Department does not properly cross-report complaints, child protective services and law enforcement cannot adequately protect children. Whenever an analyst suspects abuse against a minor, the analyst must complete a [Suspected Child Abuse Report](https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf) (SS 8572) (oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf).

A copy of the completed SS 8572 must be submitted to law enforcement or Child Protective Services.

Reporting elder and dependent adult abuse

There are four different reporting standards for incidents of suspected elder and dependent adult abuse. Which standard is used is determined on a case-by-case basis and depends on the facts analyzed by the mandated reporter. Reporting standards must be analyzed to determine reporting timeframes and identify which entities receive reports of the incident.

Licensing Program Analysts requiring support in these procedures may consult their Licensing Program Manager (LPM).

Continued on next page

3-2181: Cross-Reporting Complaints, Continued

Cross-reporting to IB when a complaint is Priority 1 or 2

When a Priority 1 or 2 complaint is reported to the Centralized Complaint and Information Bureau (CCIB), CCIB does **not** refer the complaint to the Investigations Branch (IB).

The steps in the table below must be followed once a Priority 1 or 2 complaint is received by CCIB.

Step	Action
1	<ul style="list-style-type: none"> • Within one hour of receiving a complaint, the Priority 1 or 2 complaint is generated by a CCIB Analyst. • If the complaint came in as a referral (from a police report, coroner’s report etc.), the turnaround time may be hours or a few days later, based on the CCIB Analyst’s caseload.
2	The complaint is scanned to the Regional Office (RO).
3	The CCIB Analyst must follow up the scanned complaint with an email to the Regional Manager and all LPMs of that RO to notify them that a Priority 1 or 2 complaint was received.
4	The RO is responsible for contacting IB.

For more information, see 3-2131: Priority Level 1, 3-2132: Priority Level 2, 3-2150: Referring a Case from the Regional Office to Investigations Branch, and 3-2151: Regional Office Responsibility.

3-2182: Consultations

When are consultation services used?

Some complaint investigations may require technical knowledge and expertise that is only available from trained individuals or specialized agencies.

If licensing staff need a subject matter expert, they have access to consultants who are

- under contract with the Department
- from other State agencies, or
- from local agencies.

Note: Licensing staff access consultation services through their Licensing Program Manager.

Types of consultations available

The Department is under contract with consultants in the following specialties:

- Medicine
- Nursing
- Nutrition
- Pharmacology
- Psychiatry
- Psychology

Working with other agencies

Other agencies whose consultation may be very valuable and who may have a mutual interest in the facility include

- Stakeholder and advocacy groups, such as California Advocates for Nursing Home Reform (CANHR)
- Law enforcement agencies
- Local fire departments
- Placement/referral agencies
- Protective service agencies
- Resource agencies, and
- State/local health departments.

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3-2182: Consultations, Continued

Consulting a caseworker prior to a Regional Center interview

For Regional Center persons in care who are victims or witnesses, the Licensing Program Analyst (LPA) must consult with the assigned Regional Center caseworker before interviewing a person in care to determine the person's cognitive ability for recalling events.

Note: Regional Center caseworkers can assist with an interview if the person in care requires additional support when interacting with the LPA.

3-2183: Consulting with the Legal Division

Are legal consultations mandatory in complaint cases?

Legal consultations for Priority 1 and 2 complaints are an option but not required for any proposed determination, whether “substantiated,” “unfounded” or “unsubstantiated.” When legal review is needed, it must be made available to the Regional Office.

Note: Priority 1 and 2 complaints on closed facilities require a Licensing Program Manager (LPM) to consult with the Legal Division. For additional information on closed facilities, see 3-2253: Complaint is Filed Against the Wrong Facility.

How can attorneys be contacted?

If the Licensing Program Analyst (LPA) and LPM determine that a consultation with the Legal Division is necessary, the LPM may consult an attorney at

- the monthly Legal Division consultation
- by email, or
- by telephone.

Note: Once a Legal Division attorney is assigned to the case, relevant case documents must be sent for the attorney’s review to facilitate the consultation.

Legal Division administrative/legal options

Administrative and legal options available with Legal Division involvement include

- attorney consultation
- ban on admission (only in Residential Care Facilities for the Elderly)
- Certified Family Home/Resource Family decertification
- denied application
- expedited revocation
- injunction
- revocation
- revocation of probation, and
- Temporary Suspension Orders.

Continued on next page

3-2183: Consulting with the Legal Division, Continued

Legal Division employee actions

Employee actions available with Legal Division involvement include

- immediate exclusion (employee, administrator, other)
- denied exemption
- subsequent arrest/conviction
- non-immediate exclusion (employee, administrator, other), and
- revoked exemption.

Document confidentiality

All documentation of communications between licensing staff and the Legal Division regarding any matter involving the investigation must be retained in the confidential file.

Note: All documentation is subject to the attorney-client privilege and not to be released to anyone without Legal Division approval.

How are legal consultations documented?

Opinions from the consulting attorney must be documented using the Legal Consultation Memorandum form.

Note: This form is protected by attorney-client privilege and must be filed in the confidential section of the case file.

The LPA must contact the LPM for next steps if a legal opinion is needed.

When the attorney is unavailable

When the attorney assigned to a case is unavailable, the supervisor (LPM or above) can ask to speak to another attorney or to the Assistant Chief Counsel.

When the attorney and supervisor disagree

If an attorney is consulted, and the attorney and the supervisor (LPM or above) disagree on either the appropriate outcome for a complaint investigation or whether all available information has been collected and considered, the issue must be immediately brought to the attention of the Program Administrator (or designee) or the Regional Manager for a final decision.

Continued on next page

3-2183: Consulting with the Legal Division, Continued

CACI cases: when is legal action taken?

Legal action may be taken in a Child Abuse Central Index (CACI) case if the underlying facts present a threat to the health and safety of children in care.

Note: Legal action is not taken solely because a CACI clearance is denied.

CACI cases: when legal action is merited

If the Regional Office determines that contacting the Legal Division is necessary in a CACI case, it is best practice for the LPA to consult Reference Material for Enforcement Actions for sections which discuss the pertinent legal topics.

The table below provides a guide for the most commonly referenced sections in Reference Material for Enforcement Actions pertinent to CACI cases.

Legal Topic	Reference Material for Enforcement Actions Sections
Employee exclusion actions	1-1400 through 1-1425
Foster Family legal cases	1-1400 and 1-1430
Resident exclusions	1-1400 and 1-1450
Denial of Application and other legal actions	1-1000 through 1-1280

Confidentiality of CACI cases

Important! All CACI investigation material is confidential and is **never** placed in the public section of the facility file, regardless of legal action.

For more information on specific procedures for CACI cases, see 3-2662: Child Abuse Central Index (CACI) Cases.

3-2190: Finalizing the Intake

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3-2191: Processing the Complaint Report (LIC 802)

Following up with the complainant

Once the Complaint Report (LIC 802) is complete, the Regional Office (RO) staff must notify the complainant in writing that the complaint has been received by sending the Complaint Intake Notification (LIC 856A). For additional information, see 3-2102: Complainant Contact.

Exception: When the Investigations Branch (IB) is involved in the investigation, the Licensing Program Analyst and IB shall coordinate who will contact the complainant prior to the investigation.

Note: It is best practice for the complaint intake staff to advise the complainant that he/she may call the Department's toll-free phone number (1-844-LET-US-NO) for future complaints, concerns, and general information.

For dual licensed facilities

Some facilities are licensed to provide care for more than one type of person in care. Examples of these facilities include some

- Family Child Care Homes (FCCHs)
- Certified Family Homes/Resource Families, and
- Child Care Centers (CCCs).

When a staff member at a facility is identified by licensing staff as an alleged perpetrator of abuse of a person in care, it is imperative that documentation of that person's known facility associations be included when scanning the complaint to the RO. This can help to notify RO staff of potential abuse situations in other facilities.

Note: A facility's dual licensed status, as shown in the Licensing Information System (LIS) record, must be noted on the LIC 802, along with license numbers issued to that licensee.

Continued on next page

3-2191: Processing the Complaint Report (LIC 802), Continued

Receiving, documenting, and replicating complaints

As a complaint is documented, each LIC 802 and any written documentation from the complainant, if applicable, is scanned to the RO mailbox and also replicated to the Field Automation System (FAS).

The table below shows how complaints from Centralized Complaint and Information Bureau (CCIB) are received and documented, and then replicated in FAS.

Step	Action
1	CCIB receives complaints by phone, fax and email.
2	For each complaint, the intake analyst <ul style="list-style-type: none"> • generates an LIC 802, and • documents the information in FAS.
3	FAS automatically replicates information to the ROs several times a day.

Child care handling of LIC 812 forms

Important! Any Detail Supportive Information (LIC 812) form used to document a complaint at a CCC or FCCH is scanned to the appropriate RO with other complaint documentation.

Other child care LIC 812 forms that are **not** complaint-related are only maintained in FAS and at CCIB, and are not scanned to the RO.

Chapter 4

Additional Information During the Intake Process

Overview

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3-2200: Facility-Specific Information

Overview

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3-2201: Complaints Involving Children’s Residential Facilities

Department’s prerogative of investigation of an RF

The Department is responsible for investigating all complaints regarding a Resource Family (RF) home approved by a Foster Family Agency (FFA) and taking any action it deems necessary. This includes investigating incidents reported about an RF indicating that the approval standard is not being maintained.

An FFA must not conduct an internal investigation regarding a complaint against an RF that interferes with an investigation being conducted by the Department.

Authority: Health and Safety Code, section 1517(c)(2).

Third-party complaints reported by FFAs

When an FFA reports to the Department a complaint made by a third-party, the Department must treat the reported complaint as a complaint, and **not** as an **incident report**.

When there is a pattern of complaints across FFA facilities

When there is a complaint about a Certified Family Home (CFH) or RF home, and the Licensing Program Analyst (LPA) suspects similar issues with other CFH or RF facilities certified by the same FFA, the LPA must contact the Regional Offices that have CFHs or RFs associated with that FFA.

Checking for systemic issues at an FFA

When a complaint at a CFH or RF appears likely to be substantiated, the LPA must

- review the complaint history of the CFH or RF itself, and
- investigate whether there may be a systemic problem within the certifying FFA.

3-2209: Complaints Involving Adult Residential Facilities for Persons with Special Health Care Needs

Required notifications when a complaint is received

When a complaint is received involving an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN), the intake analyst receiving the complaint may need to notify

- the appropriate Regional Center, and/or
- the State Department of Developmental Services (DDS).

The table below provides a guideline for licensing staff receiving the complaint.

If ...	Then ...
a complaint involving an ARFPSHN is received regarding the care of a person in care	the Department must notify <ul style="list-style-type: none"> • the appropriate Regional Center, and • DDS.
a complaint involving an ARFPSHN is received regarding vendorization of the facility	the Department must notify DDS.

Authority: Health and Safety Code, sections 1538(f) and (g).

3-2250: Special Complaint Situations

Overview

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3-2251: Reviewing the Child Abuse Central Index

CACI check required for care of children

The Child Abuse Central Index (CACI) must be checked prior to

- granting a license for a children’s residential or child care facility, or
- approving an individual to care for children.

Authority: Health and Safety Code, sections 1522.1(a), 1596.877.

For more information, see Welfare and Institutions Code, section 16501.27(a)(4).

CACI checks in licensed facilities

The CACI process for a background check after licensure is as follows.

Step	Action
1	CACI checks are automatically completed by Department of Justice (DOJ) upon completion of the Request for Live Scan Service – Community Care Licensing (LIC 9163) form. Note: This is the only method currently approved for CACI checks, as it produces a Requests for Arrests and Prosecution (RAP-back) service; a previous alternative one-time check method did not.
2	The DOJ conducts a search of the CACI.
3	The DOJ submits the findings to the Care Provider Management Bureau (CPMB) within Community Care Licensing Division. Findings will report one of the following: <ul style="list-style-type: none"> • Possible match. • No match to any report on file entered as an applicant. • Unable to confirm a match to any report on file.
4	CPMB will input the response from the DOJ to the Caregiver Background Check System.
5	Possible matches are referred to designated staff at CPMB’s discretion. If there is no match, it will be entered on the Licensing Information System as “Cleared – No Match.”
6	If there is a match, CPMB will notify the individual and conduct a preliminary investigation.

Continued on next page

3-2251: Reviewing Child Abuse Central Index, Continued

**CACI
consultations:
no legal action**

In response to a CACI check, if the Regional Office substantiates the allegation of child abuse or neglect, but does not plan to take legal action against the individual, the reasons for this decision must be documented. This documentation letter is placed in the confidential section of the facility file.

**CACI
procedures**

For more information on CACI procedures, see Reference Material for Background Check Procedures.

3-2252: Complaint is Suspected Harassment

What is suspected harassment?

Suspected harassment refers to complaints which

- are repeated complaints
- have never been substantiated, and
- may be filed with the licensing agency to intentionally harass a licensee.

Note: Like all complaints, the Licensing Program Analyst (LPA) is responsible for discussing the suspected harassment with the Licensing Program Manager (LPM).

Is the complaint valid?

If a complaint appears to be filed as the result of unrelated disputes or hard feelings, the basis for the complaint may still be factual.

The Department is only concerned with determining whether the allegations are true or false. In most cases, at least one investigation will be necessary to assess the situation.

Documenting suspected harassment

Suspected harassment must be documented with

- the number of times the complainant has filed allegations against the facility
- how recently the last investigation was made
- the history of the facility
- the probability that the violation exists, and
- considerations of the complainant's motivation.

Completion of LIC 802 when harassment is suspected

The Centralized Complaint and Information Bureau Analyst or other complaint intake staff must **always** complete a Complaint Report (LIC 802) upon receipt of a complaint, even when harassment is suspected.

After the analyst specifies the details of the complaint and includes rationale for suspected harassment, the LIC 802 is sent to the LPM at the Regional Office for review. If the LPM determines that the complaint is harassment and without substance (unfounded), the complaint is closed without investigation.

Continued on next page

3-2252: A Complaint is Suspected Harassment, Continued

FAS procedure for closing a complaint without investigation

Field Automation System (FAS) allows the closure of a complaint without investigation in the event the investigating LPA reviews the complaint and determines that it is unfounded. The table below provides the steps for the LPA to close the complaint without investigation.

Important! The process to close the complaint without an investigation must be completed before the ten-day timeframe.

Step	Action
1	Complete documentation of the unfounded complaint on the second page of the LIC 802.
2	Click on the <i>Approvals</i> button.
3	Click on the <i>Req Close WO Investigation</i> line.
4	A warning box appears asking the LPA if they want to continue. Click <i>Yes</i> .
5	The LPA receives a notification that the complaint has been submitted for approval. The LPM must approve the request to close the complaint.
6	The LPM reviews the complaint and document approval or disapproval in the follow-up comments section of the LIC 802.
7	The LPM can click on the <i>Approvals</i> button and select either <i>Closed Without Investigation</i> if they agree, or <i>Return</i> if they disagree.
8	Once the LPM clicks on <i>Closed Without Investigation</i> , the complaint is closed and recorded. Time tracking (ten-day inspection or aging of the complaint) is stopped. Note: There is now a question mark icon to indicate that there will be no ten-day inspection.

3-2253: Complaint is Filed Against the Wrong Facility

Complaints against misidentified facilities

Sometimes a complaint is filed against the wrong facility. The actions taken by licensing staff to correct the error depend on whether the mistake was caught before or during the ten-day site inspection.

Procedure if wrong facility is discovered before the site inspection

If a mistakenly filed complaint is caught **before** the ten-day site inspection, the Licensing Program Analyst (LPA) must

- open the Complaint Report (LIC 802), and
- update the facility link in the LIC 802 with the accurate facility information (facility name, address, person in care, etc.).

Procedure if wrong facility is discovered during the site inspection

If the mistakenly filed complaint is caught **during** the ten-day on-site inspection, the LPA must immediately consult their Licensing Program Manager (LPM) to determine the next steps (for example, to update the link or make the allegation unfounded).

If instructed and approved by the LPM, the LPA will request the Field Automation System (FAS) Specialist to delete the original LIC 802 and create a new LIC 802 reflecting the accurate facility.

Important! The LPA must document the reason for the deletion **and** the control number of the new complaint on the original LIC 802 and in the “Follow-up Comments” section of the LIC 802 in FAS.

If the facility is not licensed by the Department

A complaint filed against a facility not licensed by the Department must not be deleted. In this case, the LPA must follow the procedure described in the table below.

Step	Action
1	The complaint is documented as “Closed without Investigation.”
2	“No Jurisdiction” is documented on the LIC 802.
3	The complaint is cross-reported to the appropriate agency. Document this action on the LIC 802.
4	Close the complaint. For more information, see 3-2252: A Complaint is Suspected Harassment.

Continued on next page

3-2253: Complaint is Filed Against the Wrong Facility, Continued

If the facility is closed

When a complaint is made against a facility that has been closed, the intake analyst creates an LIC 802 as with any other complaint, to record the allegations in the case.

At the Regional Office, Priority 1 and 2 complaints against closed facilities are elevated to the Licensing Program Manager (LPM) and the Legal Division because the alleged perpetrator may be associated with another facility. Priority 3 and 4 complaints against closed facilities are elevated to the LPM only.

When a determination is made to investigate a facility that has been closed for more than five years, the LPA must request the file from the archives before beginning the investigation.

Important! The Centralized Complaint and Information Bureau Analyst or other complaint intake staff taking a Priority 1 or 2 complaint must always file a Report of Suspected Dependent Adult/Elder Abuse (SOC 341) or a Suspected Child Abuse Report (SS 8572).

If staff is no longer at the facility

If a complaint is filed against a staff member at a facility and the staff member has moved to another facility, the LPA may interview the staff member, at any location, if the staff member is still in the system.

3-2254: Complaint is Filed Against a Facility Not Licensed by the Department

Complaints for non-CCLD facilities

Sometimes a complaint is received for a facility not licensed by the Department that has been mistakenly identified as a Community Care Licensing Division (CCLD) facility by the complainant at intake.

Example: A complainant calls with a complaint about a facility located on the second floor of a building with several floors. The complainant believes that the facility on the second floor is a facility licensed by CCLD. The Centralized Complaint and Information Bureau Analyst creates the Complaint Report (LIC 802) after verifying a CCLD facility at the main address identified by the complainant. However, when the Licensing Program Analyst (LPA) goes out to investigate, she realizes that the facility located on the second floor is actually a Department of Public Health facility, and the CCLD-licensed facility is on the third floor. The complainant misidentified the agency that oversees the facility.

Can the complaint be deleted?

Complaints filed against a facility outside the Department’s jurisdiction **cannot be deleted** because the Department has an obligation to cross-report.

Procedure for closing the complaint

The procedure for handling complaints received on facilities not licensed by the Department is shown in the table below.

Step	Action
1	Close the complaint without an investigation.
2	Document “no jurisdiction” on both the LIC 802 and Complaint Investigation Report (LIC 9099). Note: If the complaint is cross-reported to another agency, the LPA must document this fact on the LIC 802 and LIC 9099.

3-2255: A New Complaint is Identical to a Closed Complaint

Complaints identical to closed complaints

Sometimes a complaint is received that is identical to a resolved, closed complaint. Complaints must not be deleted from the Field Automation System (FAS). Instead of deleting the complaint, the Licensing Program Analyst must close the new complaint without investigation.

Steps to close the complaint without investigation

The procedure to close a complaint without investigation, is described in the table below.

Step	Action
1	Close the second complaint.
2	Document “Closed without Investigation” and annotate the details of the closure on the second Complaint Report (LIC 802).
3	Ask the Licensing Program Manager to submit a written request to the FAS Specialist to <ul style="list-style-type: none"> • amend the first LIC 802, and • document the co-complainant information, including co-complainant’s name, date, that there is an identical complaint, and other pertinent information.
4	The FAS Specialist amends the original LIC 802 by submitting a ticket to the programmers to re-open the original complaint for further investigation and documentation, which takes between 3 to 5 business days to process and complete. Important! Amendments to the original LIC 802 must note any deletion of subsequent complaints, along with the deleted complaint number.
5	Report results back to the second complainant/co-complainant.

Note: For more information on closing a complaint without investigation, see 3-2252: Complaint is Suspected Harassment.

3-2256: Multiple Complaints for the Same Allegation

Duplicate complaints

Complaints are considered **duplicates** only if they are identical in their allegations. When a complaint duplicates an existing complaint, complaint intake staff must follow special procedures to avoid replication of an existing Department investigation or determination.

Note: A Centralized Complaint and Information Bureau (CCIB) Analyst or other complaint intake staff may encounter multiple complainants reporting the same allegation, which is usually the source of a duplicated complaint.

Multiple complainants

Whenever it appears that **multiple complainants** may be reporting the same allegation, the CCIB Analyst must

- consult with the CCIB Manager, and
- analyze the reports to determine whether they are duplicates.

Identical allegations

Identical allegations exist when the analyst’s assessment results in the same information being applied to the same factual events and circumstances as told by different reporting parties.

Note: It is important to ensure that all complaint allegations are investigated while at the same time utilizing resources efficiently.

Continued on next page

3-2256: Multiple Complaints for the Same Allegation, Continued

Documenting identical allegations

The table below shows how identical allegations are documented.

Step	Action
1	The assigned analyst reviews the allegations of the original complaint and the allegations of the new complaint to ensure that the allegations of both are identical.
2	Important! If the new complaint includes any allegation that was not already reported, the analyst must create a new Complaint Report (LIC 802) for the new allegation(s).
3	For identical allegations, the analyst adds all new information received regarding those allegations to the “Details of Allegation(s)” section of the original LIC 802. If the necessary descriptive text does not fit in the space available on the LIC 802 form, the analyst must attach a Detail Supportive Information (LIC 812) form to include the overflow.

Complainant confidentiality

If requested, the complainant’s confidential status must be protected to the best of the ability of the Licensing Program Analyst and the Legal Consultant. This may include not revealing the complainant’s identity to the other complainant(s), even though they are both listed on the same LIC 802.

Part 3 Principles of Investigation

Overview

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Chapter 5 Principles of Inspection/Investigation

Overview

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3-2300: Principles of Inspection/Investigation

Overview

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3-2301: Principles of Inspection/Investigation

What are the Principles of Inspection/Investigation?

The Principles of Inspection/Investigation provide conventions for performing an on-site inspection and a complaint investigation.

The Principles are divided into three areas:

- Off-Site Planning
- On-Site Inspection/Investigation
- On-Site Inspection/Investigation Conclusion

The table below describes the three areas of the Principles of Inspection/Investigation.

Area of Inspection/ Investigation	Principles
Off-Site Planning	<ul style="list-style-type: none"> • Obtain knowledge of facility program, staffing levels, history • Review facility file for relevant information • Create a plan for investigation
On-Site Inspection/ Investigation	<ul style="list-style-type: none"> • Use observation, interview, and record review • Take notes • Provide factual descriptions and document: <ul style="list-style-type: none"> ○ what happened? ○ who are the witnesses? ○ when did you see the incident? ○ where did the incident happen? • Follow up
On-Site Inspection/ Investigation Conclusion	<ul style="list-style-type: none"> • Ensure all complaint allegations are investigated • Double-check: was the off-site plan followed? • Analyze all notes, interviews, records and evidence • Determine if there is enough evidence to find a violation of statute and/or regulations • Document all relevant facts and findings • Use direct quotes • Note the date and time of inspection/investigation activities

3-2320: Off-Site Planning

Overview

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Unlike other inspection types, a complaint inspection is focused on one or more allegations and must be planned around the specific details of the complaint, prior to arriving at the complaint location.

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3-2321: Reviewing the Complaint Report (LIC 802)

Guidelines for quality and accuracy

Review for quality and accuracy as follows:

- Does the allegation violate statute or regulation?
- Have all allegations from this complainant been recorded?
- Is the allegation clear and concise?
- Is the Priority Level correct?
- Is the ten-day due date correct?
- Has the complaint been assigned (to the Regional Office or Investigations Branch) correctly?

Analyze the information

Analyze the information as follows:

- What are the issues?
- Who is/was involved?
- Is contact information complete?
- When did the alleged incident happen?
- What has happened since the incident?
- Is the complaint clear?

If information on the LIC 802 is inaccurate

If a Licensing Program Analyst (LPA) or Licensing Program Manager (LPM) finds inaccurate information such as a complaint written under a wrong facility, it is the responsibility of the LPA and LPM to

- immediately correct the information, and/or
- return the complaint to the Centralized Complaint and Information Bureau (CCIB) to fix.

Note: If a complaint is sent back to CCIB for correction, it is still the responsibility of the LPA and LPM in the Regional Office to follow up and ensure that mistakes are corrected within the Field Automation System (FAS) within the next working day.

3-2322: Following up with the Complainant

Contacting the complainant before the investigation

In addition to sending the complainant a Complaint Intake Notification (LIC 856A), the investigating Licensing Program Analyst or the Investigations Branch Investigator contacts the complainant prior to conducting an on-site investigation to enumerate the allegations and inform the complainant that

- an investigation of the allegations will be initiated
- all received material was forwarded to the Regional Office (RO)
- during the investigation, the complainant may contact their local RO for a status update on the complaint investigation, and
- the complainant may be called upon to testify at administrative hearings that are open to the public.

Complainants must also be provided

- the Department’s toll-free phone number for future complaints, concerns, and general information
- the date the department will complete its investigation, and
- the date the complainant will be notified of the results.

For more information, see Health and Safety Code (HSC), sections 1538(c)(1), 1568.071(c), 1569.35(c)(3), and 1596.853(c).

Note: If the complaint concerns a Residential Care Facility for the Elderly, the Department must also communicate its proposed course of action to the complainant.

Complaint received by CCIB

If the complaint is received by the Department’s Centralized Complaint Information Bureau (CCIB), the complainant will be informed that the complaint and all received material was forwarded to the RO.

Sending a Complaint Intake Notification (LIC 856A)

After receiving a complaint and documenting it on a Complaint Report (LIC 802), the case is forwarded to the appropriate RO staff for investigation. The RO staff must then immediately send the complainant a completed LIC 856A, unless the complainant has not provided contact information (a U.S. mail or email address) which allows them to be contacted in writing.

Authority: HSC, section 1569.35(c), 1568.071(c), and 1596.853(c).

Continued on next page

3-2322: Following up with the Complainant, Continued

If additional information is needed

Staff at the RO may contact the complainant to obtain clarification and/or additional information regarding the allegation(s), if the complainant's contact information is indicated on the front of the LIC 802.

The investigating staff must record any additional information on the LIC 802 in the section marked "Pre-Investigation Contact with Complainant."

3-2323: Gathering Information and Obtaining Consent

Sources of information

It is important for the Licensing Program Analyst (LPA) or Investigator to gather data and information from **all possible** sources – including, but not limited to, consulting with co-workers for historical information if they have worked with the facility.

Reports from outside agencies

Any relevant reports must be requested from outside agencies.

Examples:

- Department of Motor Vehicles
- fire
- police
- medical
- protective agencies
- social security

Note: In the case of a suspicious death, a copy of the Coroner’s Report, if applicable, must be requested.

Release of medical information

When it is necessary to obtain a person-in-care’s medical information, the LPA must use the Release of Client/Resident Medical Information (LIC 605A) to obtain authorization from the person in care’s authorized representative.

This form can be found on [the Department’s forms website](http://www.cdss.ca.gov/inforesources/Forms-Brochures/Forms-Alphabetic-List/I-L) (<http://www.cdss.ca.gov/inforesources/Forms-Brochures/Forms-Alphabetic-List/I-L>).

Juvenile court records

If copies of juvenile court records are needed, contact

- the Department’s Legal Division, or
- Community Care Licensing Division’s Investigations Branch.

Note: All requests must be made in accordance with the authorities granted in the Welfare and Institutions Code, section 827.

For more information on requesting juvenile court records, see Reference Material for Enforcement Actions.

Continued on next page

3-2323: Gathering Information and Obtaining Consent, Continued

Note for abuse complaints

When investigating abuse complaints, the LPA may obtain a Declaration (LIC 855) from individuals to support the investigation. The LPA may obtain a declaration by taking the statement over the phone or by meeting in person with the individual providing support.

Important! LIC 855 forms must **not** be left with an individual to fill out later and send back when completed.

For more information on taking a declaration, see Reference Material for Documentation, 3-3305: Declaration (LIC 855).

3-2324: Review of FAS, Office File, and LIS

- File review** The Licensing Program Analyst (LPA) must review all documentation in the facility file applicable to the complaint, including
- conditions on the current license
 - pending or prior legal actions or conditions (for example, legal stipulations)
 - a personnel summary
 - informal conference documentation
 - Investigations Branch documentation
 - noncompliance conference documentation (if available)
 - compliance plan (if available)
 - administrative actions (if available)
 - incident reports, and
 - LPA Checklist for Complaint Review (LIC 9230).

The file review process When reviewing files, the LPA must complete the steps shown in the table below.

Step	Action
1	Review applicable documents.
2	Photocopy any relevant non-confidential records.
3	Determine <ul style="list-style-type: none"> • the history of non-compliance • any trends/patterns, and • the individuals involved.
4	Identify <ul style="list-style-type: none"> • who to interview, and • what records to review.
5	Note the number and kind of substantiated complaint violations.
6	Ensure that all steps for planning the investigation are completed.

Continued on next page

3-2324: Review of FAS, Office File, and LIS, Continued

File review: Licensing Information System The table below shows steps to take when reviewing a facility in the Licensing Information System (LIS).

Step	Action
1	Verify background clearances for facility staff.
2	For any individuals at the facility, identify <ul style="list-style-type: none"> • criminal records • associations with the facility • exemptions, and/or • exclusions/Child Abuse Central Index (CACI) listings

File review: abuse cases When preparing an investigation of an abuse complaint, the items in the table below must be reviewed.

File for Review	Reason for Reviewing
Criminal Record Clearance	Determine if the suspect has an exemption.
Unusual Incident/Injury Report (LIC 624), if available	<ul style="list-style-type: none"> • Determine if the suspect who is also a staff person was involved with similar incidents. • Determine if the suspect has ever been accused of abusing this or any other person.
Employee’s personnel file	Review for evidence of internal issues or disciplinary action taken by facility (such as counseling memos).

Criminal record or conditional exemptions If the LPA discovers that a suspect in an abuse investigation has a criminal record exemption or a conditional exemption, the LPA must consult with the Licensing Program Manager prior to the ten-day inspection to determine the next steps.

Continued on next page

3-2324: Review of FAS, Office File, and LIS, Continued

Child Abuse Central Index cases: planning the investigation

If a case involves the CACI, the LPA must follow the steps shown in the table below.

Step	Action
1	Obtain all available reports from agencies involved in the original child abuse investigation.
2	Contact all potential witnesses.

Note: If an individual has a current or prior association on the Caregiver Background Check System, the LPA must obtain copies of any prior investigations conducted by the Department.

Review of agency records for CFH and RF complaints

If a case involves a Certified Family Home (CFH) or Resource Family (RF) home, the LPA must review the Foster Family Agency’s CFH or RF record.

For information on reviewing CFH and RF complaints, see 3-2201: Complaints Involving Children’s Residential Facilities, 3-2325: Scheduling the Initial Site Inspection, and 3-2401: Entrance Interview.

3-2325: Scheduling the Initial Site Inspection

Scheduling the inspection

When scheduling the ten-day or two-day inspection, the Licensing Program Analyst (LPA) must consider the time he/she will investigate the facility to

- ensure that staff and persons in care will be present, and
- observe during scheduled activities which are pertinent to the complaint.

Example: If the complaint is about food preparation, the LPA schedules the site inspection during a mealtime to observe meal preparation, handling, and serving.

Preparing for the inspection

The LPA must complete the following tasks, as applicable, when preparing for the inspection:

- Arrange a private interview space
- Obtain all names of persons in care, including nicknames
- Determine who is on the premises, and who is off-site
- If off-site, determine when the persons in care will return

Note: If the tasks above cannot be completed while preparing for the inspection, they can be completed when the LPA arrives at the facility.

Abuse allegations in CFH or RF facilities

An on-site inspection of a community care facility, Certified Family Home (CFH), or Resource Family (RF) home is required within ten days after receiving a complaint. **Authority:** Health and Safety Code, section 1538.

When investigating abuse allegations in a Foster Family Agency (FFA), CFH, or RF, the LPA must follow the best practices shown in the table below.

Step	Action
1	Contact the licensee of a remote FFA for an appointment.
2	Involve the FFA before the ten-day complaint inspection.
3	Consult with the Licensing Program Manager (LPM) prior to the inspection to ensure what, if anything, can be disclosed about the complaint.

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3-2325: Scheduling the Initial Site Inspection, Continued

How to communicate a Priority 1 or 2 allegation to a licensee

When investigating cases at a facility with Priority 1 or 2 allegations of physical abuse, sexual assault, or suspicious deaths, the LPA must always consult with their LPM for guidance on

- sufficiently explaining the purpose of the investigation
- ensuring that the licensee is not deliberately misled, and
- refraining from conveying the specific details of the complaint.

The language shown in the table below provides examples of correct and incorrect ways of presenting a Priority 1 or 2 allegation to the licensee without disclosing the substance of the complaint.

Statement Is	Statement to Licensee
Correct	“I am conducting a complaint investigation involving a personal rights violation and cannot discuss the details of the investigation until the investigation is complete. You will be advised of the allegations and determination within approximately ____ days.”
Incorrect	“I am only conducting a case management inspection.”

Note: For detailed information on Investigations Branch referrals see 3-2150: Referring a Case from the Regional Office to Investigations Branch.

Investigating in high crime areas

In cases where there may be physical danger to the LPA such as unlicensed operations in high crime areas, or situations where drug dealing is part of the allegation, the LPA and LPM may determine that local law enforcement backup is necessary. **This must be arranged prior to the investigation.** If needed, ask a second person to be a part of the interview for safety, as a witness, or as backup.

Note: When law enforcement backup is necessary, record this on the Complaint Report (LIC 802).

3-2326: Final Steps for Planning the Investigation

Preparation: items and copies of documents The graphic below provides a general guideline for the Licensing Program Analyst (LPA) when preparing items and copies of documents to bring to the facility for an inspection.

Bring to the On-Site Inspection	Examples
Copies of documents	<ul style="list-style-type: none"> • Client/facility roster • Facility sketch • Facility profile • Copy of license • Relevant non-confidential records • Checklist of outdated forms
Items	<ul style="list-style-type: none"> • LPA’s ID badge • Laptop and printer • Power cords and adapters • Paper, ink, staples • Flashlight • Thermometer • Bacterial test kit

Note: The list above is not exhaustive, and not all items above apply to every complaint investigation. LPAs must exercise judgement and consider all aspects of the complaint investigation when preparing for an inspection at the facility.

LPA Checklist for Complaint Review The purpose of the LPA Checklist for Complaint Review (LIC 9230) is to assist the LPA in the investigation of a complaint. The checklist must be

- completed prior to submitting the complaint to the Licensing Program Manager (LPM) for approval, and
- attached to the complaint when submitted to the LPM.

For more information, see Appendix K: LPA/LPM Checklists for Complaint Review.

3-2340: Off-Site Planning for Interviews

Overview

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3-2341: Best Practices for Interviews

Interviewing best practices

A Licensing Program Analyst must prepare in advance to ensure that

- he/she is adequately prepared and aware of existing evidence
- individuals being interviewed feel comfortable, and
- all policies and procedures for viewing injuries and using audio/visual equipment are followed.

Interviewing do's and don'ts

Following best practice means adhering to the policies and guidelines, established by the Department, and are utilized in Reference Material for Facility Inspection and Reference Material for Facility Inspection/ Investigations.

The lists below provide “do’s” and “don’ts” of best practices to keep in mind when interviewing persons in care, facility staff, or others.

When conducting an interview, **do**

- use the same terminology as the persons in care
- ask for clarification of words and terms
- be neutral and professional
- conduct interviews in private
- be objective
- be understanding and attentive
- ask open-ended questions, or
- document verbatim and clarify when needed.

When conducting an interview, **don't**

- criticize or correct choice of words
- jump to conclusions
- display shock, anger, or disapproval
- conduct interviews in group settings
- allow victims to feel at fault or place blame or judgment
- probe or press for answers a victim is not willing to give
- suggest answers (leading), or
- rely on memory.

Continued on next page

3-2341: Best Practices for Interviews, Continued

Getting support from a co-worker

Because of the sensitivity of abuse investigations, the Licensing Program Analyst (LPA) may choose to be accompanied by another analyst of a different gender to witness or conduct the interviews.

What is active listening?

Active listening is a skill set which enables an individual to listen, reflect, and accurately understand what is said. The table below identifies skills used in active listening.

Skill	Definition	Examples
Be attentive	Be aware of body language and show interest.	<ul style="list-style-type: none"> • Make eye contact (when appropriate). • Listen without thinking of your next reply.
Ask questions	Use open and closed-ended questions to elicit meaningful information.	<ul style="list-style-type: none"> • Open-ended question: “Tell me about ...” • Closed-ended question: “How old are you?”
Validate	Acknowledge the person’s experience and emotions.	“I appreciate your willingness to talk about a tough issue.”
Encourage	Use verbal or non-verbal cues to show interest and engagement.	<ul style="list-style-type: none"> • “Oh?” • “Mmm-hmm.” • “And?” • “Then?” • “I understand.”
Reflect	Reflect the emotional part of what was said.	“This seems really important to you.”
Summarize	Retell the individual’s story to ensure the essence and facts are understood.	<ul style="list-style-type: none"> • “So, it sounds to me as if ...” • “... is that correct?”
Restate	Periodically repeat back a fact or issue in your own words.	<ul style="list-style-type: none"> • “Let’s see if I’m clear about this.” • “Let’s see if I understand.”

Continued on next page

3-2341: Best Practices for Interviews, Continued

Preparing for interviews

When preparing for an interview, a LPA must determine

- the purpose of the interview
- the time and location of the interview
- which questions to ask during the interview
- the functional and developmental level of the person in care, and
- whether a multi-disciplinary team is (or should) be involved.

The LPA must also consider

- the mobility of the person in care
- the sensitivity of the incident being investigated, and
- the need to contact and consult with other agencies, such as law enforcement, child welfare services, or the district attorney.

Location of interviews

Whenever possible, the LPA should plan to interview victims and witnesses away from the location where the abuse allegedly happened if it is possible to do so without overburdening the person in care.

The chart below provides possible locations for interviews.

Place Where the Abuse Occurred	Possible Alternate Locations
Adult Day Program	Regional Center, Regional Office, or residential facility.
Residential facility (adults and elders)	Day Program, Regional Center, Regional Office, or Behavioral Health Center.
Residential facility (children)	Juvenile hall, recreation or vocational program, public or nonpublic school.
Child Care facility	The child’s home, if appropriate.
<ul style="list-style-type: none"> • Certified Family Home • Resource Family Home 	Recreation or vocational program, public or nonpublic school.

Note: For more information on interviewing children from Children’s Residential facilities, see Health and Safety Code, section 1534(a)(3).

Continued on next page

3-2341: Best Practices for Interviews, Continued

Interview order The recommended order for interviews is shown in the table below.

Step	Action
1	Complainant interview
2	Victim interview
3	Witness interviews
4	Licensee interview
5	Alleged perpetrator interview

Note: In cases of questionable death, interview first responders.

3-2342: Interview Question Types

Types of interview questions

There are five types of interview questions, as described in the table below.

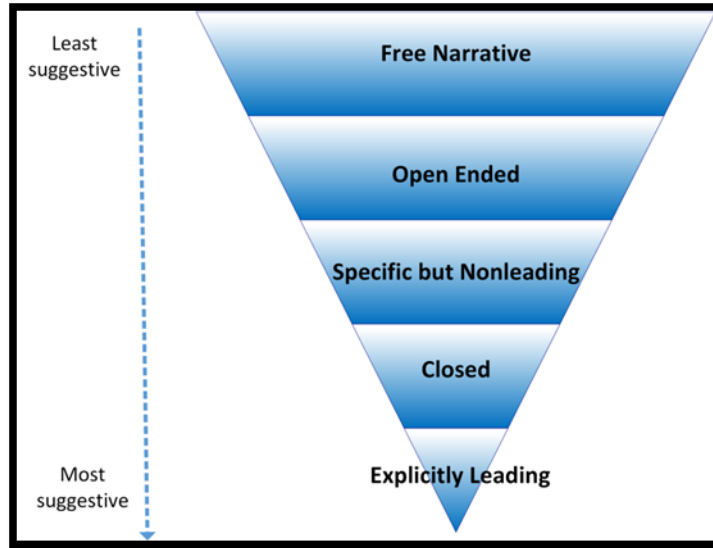
Question Type	Attributes	Examples
Free narrative	<ul style="list-style-type: none"> • Used at the beginning. • Encourages person in care to describe events in their own words. 	<ul style="list-style-type: none"> • “Tell me everything you can about that.” • “Start with the first thing that happened and tell me everything you can.”
Open ended	<ul style="list-style-type: none"> • Allows person in care to select specific details. • Requires person in care to think and reflect. • Control is with the person in care. 	<ul style="list-style-type: none"> • “You said you were in a room. Tell me about all of the things that were there.” • “You said, ‘That other time.’ Tell me about that other time.”
Specific but non-leading	<ul style="list-style-type: none"> • Asks for details about topics that persons in care have already mentioned. • Only used when important details are missing. 	<ul style="list-style-type: none"> • “Do you remember what you were doing when she came home?” • “Do you remember who was there?”
Closed	<ul style="list-style-type: none"> • Provides limited options. • Control is with the Licensing Program Analyst. • May be either: <ul style="list-style-type: none"> ○ multiple choice, or ○ yes/no. 	<ul style="list-style-type: none"> • Multiple Choice: “Did that happen in the kitchen, the bathroom, or some other place?” • Yes/No: “Was your mom home when that happened?” <p>Note: Multiple choice questions are preferred over yes/no questions. Yes/no questions may be explicitly leading.</p>
Explicitly leading	<ul style="list-style-type: none"> • Suggests the desired answer. • Contains new information not disclosed by the person in care. 	<p>“Isn’t it true ...”</p> <p>“You told your mom you were scared of him, didn’t you?”</p>

Continued on next page

3-2342: Interview Question Types, Continued

Hierarchy of interview questions

The graphic below illustrates how interview questions range from the least suggestive to the most suggestive.



Note: It is best practice to choose the least suggestive question whenever possible.

What to avoid when preparing questions

The table below identifies and provides examples of four types of questions for the Licensing Program Analyst (LPA) to avoid, and how to better phrase each question type.

Question type to avoid	Incorrect	Correct
Complex	“Did you, when you got hurt, run home?”	“Did you run home when you got hurt?”
Hypothetical	“What do you think she would say if ...”	“What did Alice say when ...”
Negation	“Did he not tell you to sit in the chair?”	“What did James tell you to do?”
Tagging	“You were eating dinner then, right?”	“What were you doing?”

Continued on next page

3-2342: Interview Question Types, Continued

“Why” questions

It is best for the LPA to avoid asking interview subjects “why?” questions, unless

- clarifying a closed-ended question, or
 - verifying an answer.
-

Asking the next question

It is important for the interviewer to ask useful, clarifying follow-up questions when appropriate during an interview. Some examples of follow-up questions include:

- “Does anyone else know?”
 - “Who can you talk to?”
 - “Does anyone listen to you? Who?”
 - “Are there times when you don’t feel safe?”
 - “Can you tell me about ...?”
-

3-2343: Sample Questions

Sample questions

This section provides some examples of possible interview questions, grouped by subject matter.

Note: It is, of course, the responsibility of the interviewer to ask questions which are appropriate and pertinent to the particular circumstances of the interview.

Sample questions: facility

Sample questions about facility related complaints (buildings, grounds) include, but are not limited to:

- “Have you ever fallen down and gotten hurt?”
- “Does anything need to be fixed around the house?”
- “Who fixes the house?”
- “Can you tell someone when something is broken? Who?”
- “Are you ever too cold or too hot? What do you do?”
- “Who controls the temperature in the house?”
- “How do you get in if the front door is locked?”
- “Does anything at the house scare you or make you mad? What are those things?”

Sample questions: medical care and medication

Sample questions for medical related complaints include, but are not limited to:

- “What happens if you get sick?”
- “How do you get to the doctor?”
- “How are your roommates doing? Do they need any help?”
- “Where is the medicine kept?”
- “Does anyone help you with your medicine? Who?”
- “What time do you get your medicine?”
- “Does anyone forget to give you your medicine? Who?”

Continued on next page

3-2343: Sample Questions, Continued

**Sample questions:
food**

Sample questions for food related complaints include, but are not limited to:

- “Do you get your own food? Does someone else get it for you?”
- “Tell me about the food.”
- “What was your snack today?”
- “Where is the food kept?”
- “What do you eat for breakfast? Every day?”
- “What do you eat for lunch?”
- “What do you eat for dinner?”
- “What happens if you get hungry and it’s not time for lunch or dinner?”

**Sample questions:
daily routines
and activities**

Sample questions for a person in care’s daily routines and activities include, but are not limited to:

- “Tell me what you’re doing today?”
- “What do you like about coming to child care at Mrs. Brown’s?”
- “What time do you go to bed or take a nap?”
- “Who decides when you go to bed?”
- “Who decides when you get up?”
- “What do you do for fun?”
- “Is it okay for everyone to have fun here?”

**Sample questions:
personal rights**

Sample questions for a person in care’s personal rights include, but are not limited to:

- “What happens when you want privacy?”
- “Is your stuff safe?”
- “Is your money safe?”
- “Has your door ever been locked and you cannot leave your room?”
- “Where do you keep your belongings? What about your toothbrush and toothpaste and soap and stuff?”
- “Can you make a phone call? Where is the phone?”
- “Will you get in trouble for talking to me?”
- “Is the staff nice? How do you know?”
- “What happens when kids don’t listen?”

Continued on next page

3-2343: Sample Questions, Continued

**Sample questions:
care and supervision**

Sample questions for facility operations include, but are not limited to:

- “Are you ever left alone?”
 - “Who do you ask if you need help going to the bathroom?”
 - “Who buys your clothes? Shoes?”
 - “Who does the laundry?”
 - “Who do you ask if you need something (for example: blankets, clean bedding, assistance going to the bathroom)?”
 - “Are there ever any problems when you need something? What happens?”
 - “Does anyone ever get mad at you here? Who?”
 - “What happens if there’s a fire in the house?”
 - “What would you do?”
 - “Has there ever been a fire?”
 - “Who would help you get out?”
-

3-2344: Planning to Interview a Victim or Witness

Preparation for an interview Before conducting an interview, it is best for the Licensing Program Analyst (LPA) to

- obtain and review any information about the developmental level and communication skills of the victim or witness, and
- plan to interview the victim or witness one-on-one.

If a victim or witness is a minor If a victim or witness is a minor, it is important for the LPA to explain to the parent or qualified caregiver, before interviewing the victim or witness, what the LPA will be doing and the reason for interviewing the victim or witness alone.

Scheduling interviews When scheduling an interview with a victim or witness, select an interview time most conducive to the interviewee’s schedule. Whenever possible, witnesses and victims must be interviewed

- in person, and
- away from the facility premises.

Timing of interviews in an abuse complaint Timing is important when responding to an abuse complaint. It is best practice for the LPA to

- interview witnesses and victims **as soon as possible** after disclosure of abuse, and
- initiate all necessary interviews **prior** to the first on-site facility inspection by the LPA.

However, practical considerations may prevent the LPA from conducting interviews prior to the on-site inspection, and in some cases the LPA must conduct the inspection to learn who all the victims and witnesses are in the case.

Important! In every abuse case, the LPA must combine expedience and thoroughness to determine the facts in case and protect persons in care.

3-2345: Planning to Interview Children and Teens

A child’s relationship with an alleged perpetrator

When interviewing children who might be experiencing abuse, the Licensing Program Analyst (LPA) must remember that children are often befriended by the alleged perpetrator and therefore may not

- be fearful, or
- think that anything that happened was wrong.

Child victims may have been

- threatened by the perpetrator
- made to feel special, or
- given special privileges by “keeping the secret.”

Examples: Possible threats made by the perpetrator include:

- “If you tell, I will hurt your mom/dad/dog ...”
- “Mom/Dad will be mad at you, and you will be in trouble.”
- “I will go to jail.”

If the child wants an adult present

If a child wants a parent or other individual to be present during the interview, and space permits, the LPA must

- advise the child that the adult will stay, and
- direct the adult where to sit (out of the child’s line of sight; if an adult is present and the child sees the adult react to an answer, this could affect the interview).

The table below provides guidance when an adult is present at an interview with a child.

If ...	Then ...
a staff person selected by the child declines to be present	the child may select an alternate staff person.
no staff person is willing to be present, or no staff person is acceptable to the child	the interview may continue with the child’s consent.
at any time during the interview, the child declines to continue	the LPA must cease the interview, but may contact the child’s placement worker or parent to assist in gaining the child’s cooperation.
the LPA needs advice in dealing with a difficult interview situation	the LPA may contact Legal Division and/or the Investigations Branch (IB).

Continued on next page

3-2345: Planning to Interview Children and Teens, Continued

Procedures to communicate with a child

To promote communication with a child, it is best for the LPA to

- position himself or herself at the child’s level (at or below eye level)
- ask questions using developmentally appropriate language
- use simple tense and one-word verbs, such as “was” instead of “might have been,” and
- be empathetic without reacting (showing reactions of horror, disbelief, disgust, or shock may cause the child to withdraw or, conversely, embellish their story).

Interviews at children’s residential facilities

If a victim or witness can only be interviewed at the facility, the interview shall take place in a private room away from the general activity of

- facility staff
- facility parents, and
- other children.

Parental permission for child interviews

The Department is empowered to conduct, in the course of an inspection or investigation, an interview with a child in care at any facility which is part of the LPA’s caseload without first obtaining permission from the child’s parent or guardian.

For Child Care Centers, Group Homes, Short-Term Residential Therapeutic Programs, Small Family Homes, and Foster Family Agencies (except in the case of nonminor dependents), this authority was acknowledged by the parent or guardian by its mandatory inclusion in the Admission Agreement they signed as part of the child’s admission to the facility.

Authority: California Code of Regulations (CCR), Title 22, Sections 80044(b), 89244(b), and 101200(b).

For more information on the authority to interview as contained in an Admission Agreement, see CCR, Title 22, Sections 80068(c)(6) and 101219(b)(6).

Interviewing the child of a foster parent

The child of a foster parent cannot be interviewed without the parents’ permission. Similarly, a child who has been returned to their parent’s care cannot be interviewed regarding allegations that occurred while in care without their parent’s permission.

Continued on next page

3-2345: Planning to Interview Children and Teens, Continued

When a parent objects to a child interview

If a parent or guardian objects to the interview of their child, the LPA must honor this objection. This does not mean that the complaint investigation stops; the LPA continues the investigation and interviews other victims and witnesses.

For advice and guidance when a parent or guardian objects, the LPA can immediately consult the

- Licensing Program Manager
- Legal Division, and
- IB.

Interviews with child victims

When interviewing a victim, the LPA must refrain from asking questions that might easily upset or traumatize him/her.

For more information, see 3-2420: Interviewing Young Children, and 3-2440: Interviewing Older Children and Teens.

Identifying a positive event prior to interviewing a child victim

Prior to an interview with an alleged child victim, the LPA prepares by identifying a recent, short, positive and meaningful event in which the child actively participated. If possible, the event chosen will be one that took place at about the same time as the alleged or suspected abuse.

Note: If the alleged abuse took place **during** a particular day or event, the LPA selects a different event.

Ensuring safety when scheduling an interview with a child victim

When interviewing a suspected victim of child abuse, the LPA must attempt to schedule interviews in a location and at a time that prevents the alleged perpetrator from knowing that

- a complaint has been filed, and
- that an investigation is in progress (for example: during school hours).

Note: The LPA must not schedule the interview during school hours if doing so could alert the alleged perpetrator, as this could jeopardize the child’s safety.

For information on interviewing children or teens during school hours, or on school premises, see Penal Code, section 11174.3.

3-2346: Planning to Interview Dependent Adults and the Elderly

Interviewing dependent adults and the elderly

When interviewing dependent adults or the elderly, the Licensing Program Analyst (LPA) must prepare by reviewing the facility file of each person in care to be interviewed. The LPA must be particularly aware of any interviewee disability that may present difficulties with

- cognition, or
- communication.

Cognitive disabilities

Cognitive or intellectual disabilities, such as dementia and autism, may affect one or more areas of functioning, including but not limited to

- comprehension
- following rules
- planning
- problem solving
- reasoning, and
- social skills.

Communication disabilities

Communication and language disabilities may affect one or more areas, including but not limited to

- expressing oneself
- limited vocabulary
- producing language
- speaking
- understanding commands, and
- word retrieval.

Note: A person in care with a communication disability may communicate using

- an interpreter
- communication boards
- sign language, or
- a voice communication machine.

Continued on next page

3-2346: Planning to Interview Dependent Adults and the Elderly, Continued

Preparing the interview site

Some dependent adults and elderly persons in care may benefit from having materials available at the interview site to help them communicate or cope with the interview. Materials include

- drawing paper
 - pencils
 - crayons
 - markers, or
 - stress balls.
-

Elderly persons in care and sense of time

Elderly persons affected by dementia or other cognitive decline may lose their sense of time. Sometimes receiving a general response to a question can be useful.

Examples:

- “It was after Mother’s Day, but before the Fourth of July”, or
- “It was after dinner but before bedtime.”

To determine when an event occurred, the LPA can reference

- physical activities
- holidays
- events (birthday parties, family outings), and
- daily routines (meal times, rest or nap time).

Note: The LPA must be aware that some individuals may pretend to understand to cover for their confusion or memory loss.

Continued on next page

3-2346: Planning to Interview Dependent Adults and the Elderly, Continued

Best practices with the elderly The table below provides a list of goals and examples for physical accommodations and best practices when working with the elderly.

Goal	Notes	Examples
Provide physical accommodations	Hearing aids, comfortable seating, glasses, sufficient lighting.	<ul style="list-style-type: none"> • “Can you see/hear me?” • “Do you need anything?”
Ensure a supportive environment	Keep background noise to a minimum.	<ul style="list-style-type: none"> • “It’s nice to meet you.” • “Can I get you anything to make you more comfortable?” • “Thank you for meeting.”
Show respect	<ul style="list-style-type: none"> • Avoid using patronizing terms like “dear.” • Don’t assume impairments, like hearing or vision loss. 	“What name do you prefer?”
Elicit communication	Ask questions about favorite activities, time in the facility, or current events.	<ul style="list-style-type: none"> • “What TV shows do you watch?” • “How long have you lived here?” • “What day/time is it?” • “Who is our President?”
Use appropriate interview techniques	<ul style="list-style-type: none"> • Check with the person to ensure the question is understood. • Make use of active listening skills. 	“Did this happen before or after lunch?” “I heard you say X, is that right?”

3-2347: Planning to Interview the Suspect, Licensee, and Facility Staff

Safety precautions prior to licensee/staff interviews

The Licensing Program Analyst (LPA) must be cautious when preparing to interview the licensee and/or staff to ensure that

- the interview site is safe, and
 - the suspect is not present or near the interview site.
-

Determining suspect history

When planning the investigation, the LPA must determine if the suspect has ever been accused of abusing the alleged victim or any other person in the past.

Note: To prepare, the LPA reviews all Unusual Incident/Injury Reports (LIC 624) that involved the suspect.

Where to conduct the suspect and licensee interviews

When interviewing the suspect and the licensee, the LPA must always conduct the interview in an environment where it is safe and the situation can be controlled.

Example: The Regional Office or Local Unit Office.

3-2360: Special Considerations When Planning Interviews

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3-2361: Viewing Injuries

Viewing injuries

When viewing injuries, the Licensing Program Analyst (LPA) is prohibited from

- requesting to see injuries to the victim’s genital areas or other parts of the body regarded as private
- allowing the victim to completely disrobe, even if he/she is willing, and
- removing or asking the victim to remove bandages or dressings.

Note: The presence of a gender-appropriate co-worker or witness may be comforting to the victim.

The table below describes what is permissible when viewing injuries. A parent or conservator may provide consent to view injuries, except to view parts of the body traditionally covered by underwear/swimwear.

If ...	Then ...
clothing is covering the injuries on the victim’s arms or legs	the victim’s permission must be obtained before viewing the injury. If the victim is able, he/she can roll up sleeves or pant leg to display the injury.
the victim cannot remove the clothing	a gender-appropriate co-worker may assist.
the injuries are located on parts of the body normally covered by clothing, excluding underwear/swimwear	they may be viewed only if the victim consents and only with the consent of the person-in-care’s authorized representative, who must be present.

Photographing visible injuries

If injuries, bruises, or other identifiable marks are visible on parts of the body that are generally not covered, a photograph of such evidence is permissible.

Photographs are only permitted for parts of the body that are not traditionally covered by clothing. Unless the subject objects, photographs may acceptably be taken of the

- face
- arms and hands, and
- legs.

Important! The LPA must **never** take a picture if the victim objects. The victim’s wellbeing takes precedence over data collection.

Continued on next page

3-2361: Viewing Injuries, Continued

Video recording

The LPA must not use video equipment to record the interview and/or the evidence unless prior approval has been obtained from the Deputy Director through one of the following managers:

- the Program Administrator
 - an Assistant Program Administrator, or
 - the Regional Manager (RM) (or County Licensing Supervisor).
-

Audio recording

To ensure legal compliance, audio equipment shall only be used with

- approval from the RM (or County Licensing Supervisor), and
- consent from the person being recorded or their authorized representative.

Important! Penal Code section 632(a) makes it a crime to record a confidential communication without the consent of all parties to the communication, by means of any electronic amplifying or recording device. This is the case whether the conversation is conducted face-to-face or over the telephone.

Chapter 6 On-Site Inspection/Investigation

Overview

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3-2400: Entrance Interview and Facility Inspection

Overview

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3-2401: Entrance Interview

Sequence of actions in an investigation

This section depicts the most common order for complaint investigations. While the processes and procedures for conducting an on-site inspection are presented in chronological order, the complaint investigation process is subject to change.

Example: An investigation is close to ending, but new evidence is found. In this case, the Licensing Program Analyst (LPA) must reanalyze the findings and may need to conduct additional interviews.

When a complaint is disclosed in the field

A Complaint Report (LIC 802) with all intake information must be created if the LPA becomes aware of a complaint when conducting an interview or interacting with an individual.

For more information, see 3-2101: How to File a Complaint.

Inspection first step: entrance interview

The first step in an inspection is the entrance interview, which takes place before conducting interviews at the facility.

Note: By law, unannounced inspections are conducted for all complaints pursuant to Health and Safety Code (HSC), sections 1533(b)(1), 1534(a)(1)(A) and (B), 1534(a)(2)(A), 1568.07(b)(1), 1569.33(a), 1596.8535(a), 1597.08, 1597.09(a), 1597.55a(b), 1597.55a(f), and 1597.55b(c) and (d).

Continued on next page

3-2401: Entrance Interview, Continued

Guidelines for the entrance interview

The guidelines in the table below describe how the LPA completes an entrance interview in any facility type, with specific exceptions noted.

Step	Action
1	Identify him/herself before entering the facility.
2	Explain, after entering the facility, that the <ul style="list-style-type: none"> • law requires that all complaints be investigated • complaint is an allegation, not an accusation, of wrongdoing, and • the licensee will have an opportunity to dispute the allegation.
3	Verify all facility contact information is updated (telephone, email) in the event of an emergency before discussing the purpose of the investigation.
4	Explain the purpose of the investigation and state the specific allegations of the complaint. <i>Important!</i> For cases of abuse at a Certified Family Home (CFH) or Resource Family (RF) home, a Foster Family Agency (FFA) licensee may not be told the specifics of the complaint until after the CFH or RF has been investigated. <i>Important!</i> When Investigations Bureau accepts a complaint for investigation, the LPA shall only advise the licensee/administrator that the allegation is regarding “Personal Rights.”
5	Briefly outline <ul style="list-style-type: none"> • what he/she intends to do while in the facility/home • how the licensee, facility parent is required to cooperate, and • before leaving, the findings will be discussed with the licensee. <i>Important!</i> Findings are not discussed with the CFH/RF parents. The LPA must advise CFH/RF parents that the findings will be discussed with the FFA.
6	Inform the licensee that, if deficiencies are found, they will be described on the Complaint Investigation Report (LIC 9099).
7	Inform the licensee that, at the end of the investigation, there will be an opportunity to develop a Plan of Correction (if cited) and discuss <ul style="list-style-type: none"> • the documentation • next steps, and • possibly, the determination based on the findings.

Continued on next page

3-2401: Entrance Interview, Continued

Withholding full disclosure of the complaint

The LPA must not disclose any information which places the person in care's health and safety at risk. The LPA **must** withhold full disclosure of the substance of the complaint from the licensee and facility staff when

- an allegation involves neglect, physical abuse, or sexual abuse of a person in care by a facility administrator or a staff member and the suspected perpetrator is
 - the licensee
 - the facility administrator
 - a relative of the licensee, or
 - the chief executive officer or a member of the board of directors (when the licensee is a corporation)
- the Regional Manager has decided that there would be significant risk to persons in care at the facility if the exact nature of the allegation were disclosed, or
- the allegation is for abuse and involves a person in care in a CFH or RF home.

Example: A complainant alleges that facility staff prohibit a person in care from making phone calls. The LPA may state that there is an alleged violation of personal rights, but may **not** state the details of the complaint.

Important! Before the ten-day complaint investigation to a CFH or RF home, the LPA may involve the FFA. However, the substance of the complaint must **not** be revealed before the investigation at the CFH or RF takes place. **Authority:** HSC, section 1538(b).

Continued on next page

3-2401: Entrance Interview, Continued

Disclosing allegations of abuse

The LPA must not disclose allegations involving abuse before delivering the determination at the end of the investigation. Disclosing allegations of abuse may put the health and safety of persons in care at risk.

The **only** exception to this rule involves one-day investigations. The table below describes disclosure procedures when an abuse investigation is and is not resolved in a single day.

If ...	Then ...
the investigation is resolved on the same day (for example, during the initial inspection)	the name of the suspect may be disclosed during the exit interview.
the investigation is not resolved on the same day	the LPA must complete a return inspection to notify the licensee of the complaint allegations, investigative findings, and final determination. For more information, see 3-2701: Procedures for Return Inspections.

Disclosure of investigation details for CFH and RF cases

For complaints involving a CFH or RF home, the LPA may **not** discuss the complaint investigation findings or determination with the CFH/RF parent, even when a FFA representative is not present at the investigation.

The LPA may **only** discuss the investigation findings and determination with the FFA. The FFA may then discuss them with the CFH/RF parent. If the parent has questions or concerns and the FFA representative is not present, the LPA must inform the parent that the parent may contact the FFA directly for information.

Note: The Complaint Investigation Report (LIC 9099) is given or mailed to the FFA, **not** to a CFH/RF parent. The Department and the FFA may collaborate to correct any deficiencies found during the investigation.

Continued on next page

3-2401: Entrance Interview, Continued

Notification procedure in abuse cases when the licensee is absent

If the allegation involves neglect, physical abuse, or sexual abuse by the facility administrator or staff member, and the licensee is not present, the LPA must explain to the facility representative **only** that

- a complaint investigation is taking place, and
- further investigation is required in order to resolve the complaint.

The LPA may provide the general nature of the complaint, but may **not** disclose the specific allegation. Upon completion of the on-site inspection, the LPA

- indicates an estimated date of completion for the investigation on the LIC 9099
- leaves a copy of the LIC 9099 documenting this information at the licensed facility, and
- provides or mails (via certified mail) a **second** copy of the LIC 9099 to the licensee within ten days of the complaint investigation.

Note: The LPA may speak with the licensee, or the designated representative of the associated FFA when the licensee is not present.

Notification procedure when an employee is suspected of abusing a child

The LPA must **not** inform the licensee when an employee is the subject of a child abuse investigation.

Note: The Regional Office has 60 days to conduct the Child Abuse Central Index investigation to determine if there is a match.

3-2402: Facility Inspection

Beginning the facility inspection

The Licensing Program Analyst (LPA) must begin the facility inspection consistent with the off-site plan.

Depending on the nature of the complaint and the facility type, the LPA may assess one or more of the following during a complaint inspection:

- Licensing
- Application procedures
- Administrative actions
- Enforcement provisions
- Facility policies and procedures
- Physical environment
- Care and supervision
- Medical services, policies, and procedures
- Personal rights
- Facility files and records

Note: The LPA must assess all areas related to the complaint, as necessary.

Cases referred to the RO by CPMB

When a case is referred to the Regional Office (RO) by the Care Provider Management Bureau (CPMB), an investigation must be conducted like a complaint investigation.

For more information on background check cases, see 3-2320: Off-Site Planning.

File review

The table below provides a guideline for reviewing files at the facility.

Review	To determine the...
Plan of Operation	type and frequency of services provided by the facility.
Personnel Report (LIC 500)	staff coverage at the facility/at the time of the incident.
Unusual Incident/Injury Reports (LIC 624)	patterns of incidents at the facility.

Note: The LPA **must** take precautions to follow best practices and keep the complainant and victim’s identity confidential. To help ensure confidentiality when reviewing files, the LPA must review multiple records, not just the records pertinent to the case.

Continued on next page

3-2402: Facility Inspection, Continued

Determine if a TSO is appropriate

When a recommendation for a Temporary Suspension Order (TSO) seems likely, the LPA must thoroughly analyze all aspects of a facility’s operation to ensure that a TSO is an appropriate Administrative Action. If a TSO is appropriate, see 3-2663: Temporary Suspension Orders for more information.

Citing deficiencies

Deficiencies are cited using the appropriate section number from the

- California Code of Regulations, Title 22
- Health and Safety Code, or
- Interim Licensing Standards.

Note: For more information on documenting deficiencies, see 3-2500: Documenting the Complaint Investigation.

Ensuring full compliance

In addition to investigating the specific complaint, the LPA must ensure the licensee's compliance with related elements of the complaint.

The table below illustrates how an LPA might ensure compliance with requirements associated with a single allegation of **inadequate food served at mealtimes** by checking sources of information that touch upon the actions taken during the investigation.

Investigative Action	Source of Information
Observe at mealtime	<ul style="list-style-type: none"> • Amount of food served • Quality of perishable and staple foods
Inspect the kitchen and food storage	<ul style="list-style-type: none"> • Food contamination • Quantity of perishable and staple foods
Review records	<ul style="list-style-type: none"> • Diets of persons in care • Dieticians’ reports • Menus
Conduct interviews	<ul style="list-style-type: none"> • Persons in care • Family of the person in care (including children) • Staff

Continued on next page

3-2402: Facility Inspection, Continued

LPA time management

If the LPA has completed an on-site inspection and no additional deficiencies are found, the complaint is straightforward, and there is additional time in the day, the LPA must conduct either

- a random annual inspection at that facility when one is due, or
- another inspection at another facility.

For more information on conducting facility inspections, see Reference Material for Documentation, and Reference Material for Facility Evaluation/Visits.

Additional time for the investigation

If the LPA determines that additional time is needed for an investigation, the LPA must

- indicate an estimated time of completion – such as 30, 45, 60, or 90 days – on the Complaint Investigation Report (LIC 9099)
 - leave a copy of the LIC 9099 at the facility
 - inform the licensee that more time is needed, and
 - ensure that the LIC 9099 is retained in the confidential file until a resolution is reached.
-

Assisting law enforcement

A law enforcement agency may request that a LPA investigate a facility to obtain information that will assist them with their own investigation.

Example: An LPA may be asked to obtain the names, addresses, and phone numbers of all persons in care and their parents/representatives.

3-2420: Interviewing Young Children

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3-2421: Interviewing Young Children

NICHD best practices

When a complaint alleges child abuse, a Licensing Program Analyst (LPA) may need to conduct an interview with one or more children as part of the investigation.

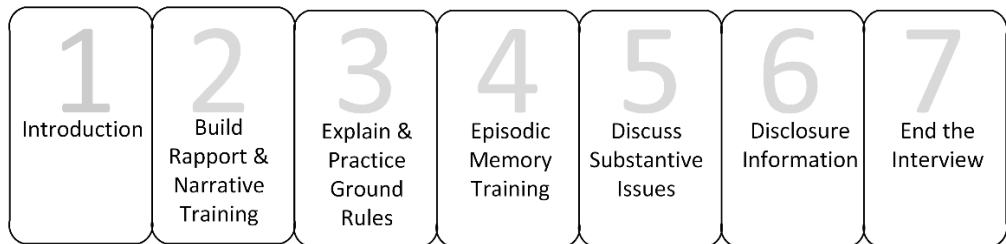
Evidence-based guidelines described in this section, developed at the National Institute of Child Health and Human Development (NICHD), are best practices provided for informational purposes. The NICHD guidelines are based on research of children’s

- communication skills
- memory
- social knowledge, and
- social tendencies.

Additional information on the NICHD Investigative Interview Protocol can be located at the [NICHD protocol website](http://nichdprotocol.com/) (<http://nichdprotocol.com/>).

The NICHD Investigative Interview Protocol

The graphic below shows the NICHD Investigative Interview Protocol.



Special considerations for young children

Interviewing young children requires the LPA to be sensitive to the needs of young children by

- connecting with the child and establishing rapport
- communicating in a developmentally-appropriate manner
- being mindful of the child’s nap and meal times, and
- following best practices when interviewing.

Note: Children have shorter attention spans. The LPA must be aware of the length of the interview and stop if the child loses interest or becomes tired.

Continued on next page

3-2421: Interviewing Young Children, Continued

Strategies to provide support

General guidelines for the LPA in establishing rapport when interviewing young children are listed below.

To Support the Child in	LPA Actions
trusting the LPA	<ul style="list-style-type: none"> • sit on the floor • play games • talk in a calm voice
gaining a sense of control	ask for permission to play and talk
feeling reassured	tell the child that they did nothing wrong
telling their story at their own pace and without pressure	<ul style="list-style-type: none"> • ask non-leading questions • allow time for the child to respond

Props and toys which facilitate communication

To support the child in telling their story at their own pace and without pressure, the LPA can come prepared with one or more

- action figures
- drawing materials (crayons, markers, paper)
- family of small dolls
- Play-Doh
- puppets
- structured games
- stuffed animals
- table games
- two telephones, or
- wood or plastic blocks.

Continued on next page

3-2421: Interviewing Young Children, Continued

Communicating with the child: what to avoid

When communicating with children, it is best if the Licensing Program Analyst avoids

- speaking to the child like an adult
- using pronouns
- using abstract words to describe time and place, and
- asking “why” questions (because they place blame).

The table below provides examples of language to use and avoid when interviewing children.

Avoid	Use
<ul style="list-style-type: none"> • Complex language • Long sentences 	Short, simple sentences
Using pronouns such as <ul style="list-style-type: none"> • “he” • “she” • “him,” or • “they.” 	Specific names, when possible
Saying words such as <ul style="list-style-type: none"> • “last week” • “yesterday” • “here,” and • “there.” 	<ul style="list-style-type: none"> • Holidays • Familiar activities • Specific places
Asking “ Why did you get into the car with Joe?”	“ How did you get into the car with Joe?”

3-2422: Beginning the Interview and Building Rapport

How does the interview begin?

The interview begins with the Licensing Program Analyst (LPA)

- introducing him or herself
- explaining their role, and
- ensuring that the child is comfortable.

The table below shows a typical introduction. The LPA may amend this introduction as appropriate.

Step	Example LPA Interview
1	LPA: "Hello, <i>[child's name]</i> , I am glad to meet you today."
2	<i>LPA waits for response.</i>
3	LPA: "My name is <i>[LPA name]</i> and my job is to make sure kids are kept safe. Are you comfortable? Can I do anything to make you more comfortable?"
4	<i>LPA waits for response.</i>

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3-2422: Beginning the Interview and Building Rapport, Continued

Interviewing a child: get to know the child

In an interview, the first part of building rapport with a child is to

- provide support
- determine developmental level, and
- establish a relationship with the child.

The table below shows a sample interview scenario in which the child is fully responsive to the Licensing Program Analyst (LPA).

Step	Example LPA Interview
1	LPA: “Now, <i>[child’s name]</i> , I want to get to know you better. Tell me about the things you like to do.”
2	<i>Child responds.</i>
3	LPA: “Thank you for sharing that with me. It helps me to get to know you.”
4	LPA: “I am glad I am starting to get to know you.”

The table below shows a sample interview scenario in which the child is less responsive to the LPA.

Step	Example LPA Interview
1	LPA: “Now, <i>[child’s name]</i> , I want to get to know you better. Tell me about the things you like to do.”
2	<i>Child does not respond, gives a short answer, or is stuck.</i>
3	LPA: “I know this is the first time we have met, and I really want to know about you.”
4	LPA: “I am glad I can talk to you today.”

Interviewing a child: determining developmental level

The LPA can use the opportunity while building rapport to also determine the child’s maturity and developmental level.

Asking the child if they understand a question will assist the LPA to ask questions appropriate to the child’s developmental level.

Note: A child’s chronological age and developmental level may not be the same.

Continued on next page

3-2422: Beginning the Interview and Building Rapport, Continued

Interviewing a child: supporting the avoidant or resistant child

If the child shows nonverbal cues of avoidance or resistance (such as gaze aversion), the LPA must address it right away, using one or more of the example responses below.

- **LPA:** “[*child’s name*], thanks for letting me listen to you today. Please tell me about what you’re going through.”
- **LPA:** “[*child’s name*], let me see your eyes.”
- **LPA:** “[*child’s name*], I can see you’re [*crying, quiet*]. Tell me what is happening so I can help.”
- **LPA:** “[*child’s name*], go ahead and sit closer to me.”

Interviewing a child: additional rapport building

Often in interviews with children, additional rapport building is needed. The table below provides the LPA additional strategies for getting to know the child if the child continues showing avoidance or resistance.

Rapport-Building Strategy	Example LPA Interview
Invite the child to talk about a neutral topic chosen before the interview	LPA: “I heard you like [<i>chosen topic</i>]. Tell me about [<i>chosen topic</i>].”
Describe a unique belonging or item (toy, clothing, etc.)	LPA: “I see you are wearing a [<i>unique item</i>]. Tell me about it.”
Draw a favorite activity or recent fun event	LPA: “[<i>child’s name</i>], would you like to draw a picture of [<i>something child likes</i>]?”

3-2423: Narrative Training

What is Narrative Training?

Narrative Training is the stage of the National Institute of Child Health and Human Development Investigative Interview Protocol which allows time for the child to practice describing a neutral, recent event in detail before discussing a difficult or emotional event.

The table below provides three examples of ways for the Licensing Program Analyst (LPA) to engage a child in narrative training.

Step	Example LPA Interview
1	<ul style="list-style-type: none"> • LPA: “Now, <i>[child’s name]</i>, tell me about <i>[activity child already mentioned]</i>.” • LPA: “<i>[child’s name]</i>, tell me about something that happened at <i>[school, kindergarten]</i>.” • LPA: “Tell me about <i>[something fun the child mentioned]</i>.”
2	<i>LPA waits for response.</i>

Note: At this stage of the interview, the LPA must not mention the location in which the alleged abuse may have taken place.

Discussion of neutral events

When practicing discussing neutral events with a child, it is best to

- avoid discussing TV shows or fantasy
- use various invitations to ask about different topics, and
- use one of those invitations to focus on the child’s
 - thoughts
 - feelings, or
 - emotions.

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3-2423: Narrative Training, Continued

Discussing an unpleasant event: part 1

After discussing a pleasant event, the next part of Narrative Training with a child is to practice discussing an unpleasant event.

The table below shows how a LPA may transition a child to discussion of an unpleasant event.

Step	Example LPA Interview
1	LPA: “You told me about something <i>[fun, happy, pleasant]</i> that happened to you. Now tell me about something unpleasant that happened to you at <i>[school, kindergarten]</i> .”
2	<i>LPA waits for response.</i>

Note: If the child reveals distressing information, it is best for the LPA to explore that information briefly while making supportive statements. For examples of supportive statements, see 3-2426: Transition to Substantive Issues. For more information on recognizing abuse, see 3-2105: Mandated Reporting, and 3-2345: Planning to Interview Children and Teens.

Discussing an unpleasant event: part 2

When discussing an unpleasant event, the LPA must remember to

- ask various questions about different topics, and
- use one topic invitation to focus on **thoughts, feelings, or emotions**.

Discussing an unpleasant event: part 3

The table below shows a sample interview scenario where the LPA transitions a child through discussion of an unpleasant event.

Step	Example LPA Interview
1	LPA: “Please tell me about <i>[something the child mentioned]</i> .”
2	<i>LPA waits for response.</i>
3	LPA: “You told me about <i>[the unpleasant event]</i> . Have you told an adult about that?”
4	<i>LPA waits for response. If the child says “No,” proceed to Step 5.</i>
5	LPA: “Would you like me to help you tell someone?”
6	<i>LPA waits for response.</i>

3-2424: Explaining and Practicing Ground Rules

What are ground rules?

Ground rules are basic principles. Establishing ground rules provides context, sets expectations and empowers the child to

- say if they don't understand or don't know a question, and
- correct the Licensing Program Analyst if needed.

Interviewing a child: when a question is not understood

The table below shows the best way for the Licensing Program Analyst (LPA) to teach a child how to respond when a question is not understood.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], I’m interested in you and I’ll be asking you lots of questions today. If I ask a question that you don’t understand, just say, ‘[<i>LPA’s name</i>], I don’t understand.’ Okay, [<i>child’s name</i>]?”
2	<i>LPA pauses.</i>
3	LPA: “If I don’t understand what you say, I’ll ask you to explain.”
4	<i>LPA pauses.</i>

Interviewing a child: when an answer is not known (1 of 2)

The table below shows the best way for the LPA to teach a child how to respond when they don’t know the answer to a question.

Step	Example LPA Interview
1	LPA: “If I ask a question, and you don’t know the answer, just tell me, ‘I don’t know.’”
2	<i>LPA pauses.</i>
3	LPA: “So, [<i>child’s name</i>], if I ask you [<i>for example: ‘What did I have for breakfast today?’</i>], what would you say?”
4	<i>LPA waits for child’s answer.</i>
5	<i>If the child answers, “I don’t know”:</i> LPA: “Right. You don’t know, [<i>child’s name</i>], because [<i>you weren’t with me when I ate breakfast</i>].”

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3-2424: Explaining and Practicing Ground Rules, Continued

Interviewing a child: when an answer is not known (2 of 2)

When teaching a child how to respond when they don't know the answer to a question, the table below shows the best response for the LPA if the child **attempts to guess** at the teaching question.

Step	Example LPA Interview
1	LPA: "If I ask a question, and you don't know the answer, just tell me, 'I don't know.'"
2	<i>LPA pauses.</i>
3	LPA: "So, <i>[child's name]</i> , if I ask you <i>[for example: 'What did I have for breakfast today?']</i> , what would you say?"
4	<i>LPA waits for child's answer.</i>
5	<i>If the child offers a guess [for example, a breakfast food in response to the sample question in Step 3]:</i> LPA: "No, <i>[child's name]</i> , you don't know me and <i>[you weren't with me when I ate breakfast]</i> , so you don't know. When you don't know the answer, please don't guess. Just say that you don't know."
6	<i>LPA pauses.</i>
7	LPA: "But if you do know or remember, it is very important that you tell me, okay?"

Interviewing a child: when interviewer is incorrect (1 of 2)

The table below explains how to teach a child how to respond when the LPA makes an incorrect statement.

Step	Example LPA Interview
1	LPA: "If I say things wrong, you should tell me. Okay, <i>[child's name]</i> ?"
2	<i>LPA waits for child's answer.</i>
3	LPA: "So, <i>[child's name]</i> , if I said that you were a two-year-old <i>[when interviewing a 5-year old]</i> , what would you say?"
4	<i>LPA waits for child's answer.</i>

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3-2424: Explaining and Practicing Ground Rules, Continued

Interviewing a child: when interviewer is incorrect (2 of 2)

The table below provides responses for different scenarios when teaching a child how to respond when the LPA makes an incorrect statement.

If ...	Then ...
the child denies but does not correct what the interviewer says	the LPA responds: “What would you say if I made a mistake and called you a two-year-old <i>[when interviewing a five-year old]?</i> ”
the child gives a correct answer	the LPA responds: “That’s right, <i>[child’s name]</i> . Now you know you should tell me if I make a mistake or say something that is not right.”
the child gives an incorrect answer	the LPA responds: “No, <i>[child’s name]</i> , you are not <i>[wrong age]</i> , you are <i>[real age]</i> . So if I say you are <i>[wearing/not wearing a hat, when the opposite is true]</i> , what would you say?”

Interviewing a child: summary of purpose

When interviewing a child, the final step of explaining and practicing ground rules is to provide the child with a short explanation of purpose. The LPA may amend the following example, as appropriate:

LPA: “Part of my job is to talk to children and make sure they are kept safe. I meet with lots of children so they can tell me the truth about things that have happened to them. *[child’s name]*, it is very important that you tell me the truth today about things that have happened to you.”

3-2425: Episodic Memory Training

What is the episodic memory training phase?

Episodic memory is a long-term memory of a specific event that was personally experienced at a particular time or place in the past.

In the National Institute of Child Health and Human Development Investigative Interview Protocol for interviewing children, the child practices recalling a neutral or positive event, from beginning to end, before disclosing information about alleged traumatic events. This is referred to as the “episodic memory training phase” of this interviewing protocol.

Note: If the child makes an allegation at any time in this phase, the interviewer skips ahead to exploring substantive issues. For more information, see 3-2427: Exploring Substantive Issues.

Interviewing a child: main invitation

Ideally, at the start of the “episodic memory training phase” of an interview with a child, the Licensing Program Analyst (LPA) has identified a recent, short, positive and meaningful event in which the child actively participated.

The table below shows examples of how the interviewer can initiate the **main invitation** to the child to respond.

If ...	Then ...
an event was previously identified by the LPA	the LPA could say: “A few <i>[days, weeks]</i> ago was a <i>[holiday, birthday party, other event]</i> . Tell me everything that happened during <i>[the event]</i> , from beginning to end. Do the best you can.”
an event was not previously identified by the LPA	the LPA could say: “Did you do something special recently? Like go to a birthday party?”
<ul style="list-style-type: none"> the LPA has not identified an event for the child to recall, or the child does not identify a suitable event in response to earlier questioning 	the LPA could say: “So, I want you to tell me everything that happened <i>[today, yesterday]</i> , from the time you woke up.”

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3-2425: Episodic Memory Training, Continued

Interviewing a child: follow-up invitations

The table below shows examples of how the Licensing Program Analyst (LPA) can provide **follow-up invitations** to the child to respond, after the main invitation has been issued.

When the child’s response to a follow-up invitation is truthful, the LPA supports the child’s answer and develops the conversation, as seen in Step 3.

Step	Example LPA Interview
1	LPA: “And then what happened, <i>[child’s name]</i> ?”
2	<i>LPA waits for child’s answer. If the answer is truthful, LPA responds with Step 3.</i>
3	LPA: “Thank you, <i>[child’s name]</i> , you have told me many things. I want to ask you some more questions about what you just told me.”

Note: The LPA may ask, “And then what happened?” as often as needed until the child has given a full account of the event.

Interviewing a child: time segmentation invitations

Time segmentation is a technique that can be employed when interviewing a child, to direct the child to describe an event from beginning to end. It is best for the LPA to try to use **three** separate time segmentation invitations over the course of an interview.

The table below shows a continuation of the discussion of the positive event selected by either the LPA or the child for the episodic memory training phase of the interview.

Step	Example LPA Interview
1	LPA: “ <i>[child’s name]</i> , I would like you to tell me everything about <i>[the event]</i> .”
2	<i>LPA waits for child’s response.</i>
3	LPA: “Please tell me everything that happened from the moment <i>[an activity the child mentioned]</i> to the moment <i>[a subsequent activity]</i> .”

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3-2425: Episodic Memory Training, Continued

Interviewing a child: time segmentation starting with an event

The table below shows an example of how the LPA can respond during an interview with a child if the child has difficulty understanding delineated segments in a time segmentation invitation.

Step	Example LPA Interview
1	LPA: “Please tell me everything that happened from the moment [<i>an activity the child mentioned</i>].”
2	<i>LPA waits for child’s response.</i>
3	LPA: “Thank you, [<i>child’s name</i>], for telling me that. You [<i>talk, speak, express yourself</i>] very clearly, and that helps me understand what you are saying.”

Interviewing a child: cued invitations

During the episodic memory training phase of an interview with a child, it is best for the LPA to try to include the **cued invitations** listed below:

- **LPA:** “Tell me more about [*activity, object, thought, feeling*].”
- **LPA:** “Earlier you spoke about [*activity, object, thought, feeling*]. Tell me more about that.”

Note: Including **three** separate cued invitations is optimal, but the LPA may adjust the number depending on the child’s capabilities and reactions. The LPA must also remember to focus on the child’s thoughts and feelings.

Interviewing a child: wrap up episodic memory training

Just prior to concluding the episodic memory training phase of an interview with a child, it is important for the LPA to show appreciation to the child for cooperating, and to repeat the importance of describing events accurately, as shown in the following example statement:

LPA: [*child’s name*], thank you for telling me about [*event*]. When we talk today, it is very important that you tell me everything about things that have really happened to you.”

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3-2425: Episodic Memory Training, Continued

Interviewing a child: check in with the child

The final action by the LPA during the episodic memory training phase of an interview with a child, is to check in with the child before proceeding to the next phase of the interview. The table below shows an example of an LPA’s check-in question.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], how are you feeling so far in our conversation?”
2	<i>LPA waits for child’s response.</i>

3-2426: Transition to Substantive Issues

What is the substantive phase?

After the episodic training phase of an interview with a child, when the child has practiced talking about recent neutral events, the Licensing Program Analyst (LPA) next initiates discussion of substantive issues. This is referred to as the **substantive phase** of the interview.

Interviewing a child: first prompt

To transition to talking about the allegation(s) when interviewing a child, the LPA moves to the **first prompt**, as shown in the table below.

Step	Example LPA Interview
1	LPA: “Now that we know each other a little better, I want to talk to you about why <i>[you are, I am]</i> here today.”
2	<i>LPA waits for child’s response.</i>

Interviewing a child: if the child reports an irrelevant event

In transitioning to discussion of the allegation(s) during an interview with a child, after the first prompt, the child may report something irrelevant. If this occurs, the LPA acknowledges the response and encourages the child to stay on topic by using the additional prompt shown in the table below.

Step	Example LPA Interview
1	LPA: “I know what you are saying to me, <i>[child’s name]</i> . If you want, we can talk about that later. Right now, though, I want to know about something else that may have happened to you.”
2	<i>LPA waits for child’s response.</i>

Note: The LPA must remember to wait for a response after asking each question.

Interviewing a child: redirecting the child

During an interview with a child, if the child stops talking or goes off on a different subject, the LPA can repeat the last thing the child said to redirect back to where they were.

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3-2426: Transition to Substantive Issues, Continued

Interviewing a child: is the child a direct witness?

When interviewing a child regarding an allegation, it is important to determine if the child is a direct witness to the event. The tables below provide guidance when determining if a child is a direct witness to a particular event and the correct response by the LPA.

If ...	Then ...
the child actually saw or heard the event	the child is a direct witness .
the child did not actually see or hear the event	the child is not a direct witness.

If ...	Then ...
the child is a direct witness	the LPA continues with the sequence of interview prompts.
the child is not a direct witness	the LPA asks how the child obtained the information.

When interviewing a child victim or witness

Important! When interviewing a child who is a victim or witness, the LPA should try to find out what the child was told about

- the LPA, and
- the LPA’s purpose for speaking to the child.

Interviewing a child: signs of programming or coaching

Important! When interviewing a child, the interviewer must be aware of the possibility of **programming**. This is when the child has been coached on what information to disclose or withhold.

Children who have been coached

- do not know specific details
- tell the story systematically, because that is how they were taught, and
- have difficulty picking up in the middle of the story.

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3-2426: Transition to Substantive Issues, Continued

Interviewing a child: prompts 2-9

After transitioning an interview with a child to substantive issues using the **first prompt**, the LPA continues with prompts 2 through 9 of the interview.

During this phase, the LPA may consult the table below to manage the interview.

If ...	Then ...
the child makes no allegation when responding to a prompt	the LPA continues to the next prompt.
the child does make an allegation when responding to a prompt	the LPA skips to exploring substantive issues. For more information, see 3-2427: Exploring Substantive Issues.

The table below outlines prompts 2 through 9.

Question	Prompt
2	LPA: “I understand that something may have happened to you. Tell me everything that happened from the beginning to the end.”
3	LPA: “As I told you, my job is to talk to children about things that might have happened to them. It is very important that you tell me why you think <i>[you are, I came]</i> here today.”
4	LPA: “I <i>[saw, heard]</i> that you <i>[have/had documented injuries, bruises]</i> on your <i>[body part]</i> . Tell me everything about <i>[those, that]</i> .”
5	LPA: “ <i>[child’s name]</i> , has anything happened to you at <i>[location, time of alleged incident]</i> ?”
6	LPA: “ <i>[child’s name]</i> , has anybody been bothering you?”
7	LPA: “ <i>[child’s name]</i> , did someone do something to you that you don’t think was right?”
8	LPA: “ <i>[child’s name]</i> , did someone <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> ?”
9	LPA: “ <i>[child’s name]</i> , I understand <i>[you, someone]</i> <i>[reported, saw]</i> <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> . I want to find out if something may have happened to you.”

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3-2426: Transition to Substantive Issues, Continued

Interviewing a child: the child is resistant or non-responsive

If an interview with a child is met with resistance or non-responsiveness from the child, it may be necessary for the LPA to end the current interview and schedule another interview for another time.

The table below shows when it is best to end an interview and schedule a new one, and when to continue with the current interview.

If ...	Then ...
the child expressed explicit verbal resistance and did not deny the allegations at any point	the LPA manages the resistance using the supportive statements described in 3-2426: Transition to Substantive Issues.
the child is non-responsive, resistant, or uncooperative, and the LPA believes that rapport-building will benefit from another interview	the LPA ends the interview (see 3 2429: Ending the Interview), and schedules an additional interview for rapport building.

Interviewing a child: the child becomes fearful or withdrawn

During an interview with a child, two techniques that can be employed to encourage a fearful or withdrawn child to respond are

- using a play telephone to communicate with the child, and
- talking with the child using a doll or stuffed animal.

When employing these techniques, the LPA asks prompting questions, such as:

- “Can you help me understand what happened?”
- “Can you help me decide what to do about ... ?”

Important! If the child has **already** disclosed abuse, the LPA can

- ask the child to tell the doll or stuffed animal what they did not like about what the alleged perpetrator did, or
- have the child show what happened using the doll or stuffed animal.

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3-2426: Transition to Substantive Issues, Continued

Interviewing a child: the child had previous contact with authorities

If, when interviewing a child, the LPA becomes aware that the child has had previous contact with authorities, the LPA must seek the child’s response pertaining to those contacts. An example of how the LPA can question the child in this matter is shown in the table below.

Step	Example LPA Interview
1	LPA: “I’ve heard that you talked to a <i>[doctor, teacher, social worker, other professional]</i> at <i>[time, location]</i> . Please tell me what you talked about.”
2	<i>LPA waits for child’s response.</i>

Interviewing a child: supportive statements (part 1)

If a child has explicitly expressed difficulty or reluctance to disclose during an interview, but has not denied alleged abuse, the LPA may use any of the supportive statements below to reassure the child.

- **LPA:** “*[child’s name]*, my job is to listen to children about things that happened to them.”
- **LPA:** “*[child’s name]*, I really want to know when something happens to children. That’s what I am here for.”
- **LPA:** “*[child’s name]*, here kids can talk about good things and bad things that have happened to them.”
- **LPA:** “*[child’s name]*, my job is to try to help kids.”
- **LPA:** “You told me a lot about yourself. I feel I know you better and you can tell me more about *[things, both good things and bad things]* that have happened to you.”
- **LPA:** “You told me a lot about yourself, thank you for letting me know. Please go on and tell me about other things that have happened to you.”
- **LPA:** “*[child’s name]*, if there is anything you want to tell me, *[I want to know/listen, it’s important for me to know/listen]*.”

Note: It is best for the LPA to address the child by their first name.

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3-2426: Transition to Substantive Issues, Continued

Interviewing a child: supportive statements (part 2)

If a child is overtly refusing to engage during an interview, and has explicitly expressed difficulty or reluctance to disclose, but has not denied alleged abuse, the LPA may use any of the supportive statements below – in addition to those in “Interviewing a child: supportive statements (part 1)” – to reassure the child:

- **LPA:** “[*child’s name*], I understand you are [*difficulty the child mentioned – for example: embarrassed*].” Let’s start talking and I’ll try to help you with it.”
- **LPA:** “Many children are [*difficulty the child mentioned*] and I try to help them.”
- **LPA:** “I understand you are [*difficulty the child mentioned*], tell me more about that.”
- **LPA:** “It’s your choice whether to tell and I will accept your choice.”

If ...	Then ...
the child expresses lack of confidence	LPA: “I’m sure you can talk about it well.”
the child says they are worried about something specific and the reassurance the LPA can give is true	LPA: “Do not worry, I will [<i>not tell the other children, make sure you are not late for the bus</i>].”

Note: It is best for the LPA to address the child by their first name.

3-2427: Exploring Substantive Issues

Substantive phase interview skills

Throughout the entire substantive issues phase of an interview with a child, it is important for the Licensing Program Analyst (LPA) to

- preserve and enhance the rapport established with the child
- continue providing supportive statements, and
- address expressed inhibitions, distress, and conflicts.

Interviewing a child: free recall invitations

When interviewing a child, **free recall invitations** are various scenarios and options that a LPA can use to ask a child about the alleged incident(s). The table below provides some examples of free recall invitations.

If ...	Then ...
the child mentions a specific incident	the LPA can say: “[<i>child’s name</i>], you told me that [<i>briefly summarize the allegation the child has made</i>]. Tell me everything from the beginning to the end.”
the child mentions several incidents	the LPA can say: “[<i>child’s name</i>], you told me that [<i>briefly summarize the allegation the child has made</i>]. Tell me everything about the [<i>last time, first time, place, time, specific incident</i>] from the beginning to the end.”
the child gives a generic description, and the LPA cannot determine the number of incidents	the LPA can say: “[<i>child’s name</i>], you told me that [<i>briefly summarize the allegation the child has made</i>]. Did that happen one time or more than one time?”

Note: The LPA must always remember to wait for a response after prompting the child.

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3-2427: Exploring Substantive Issues, Continued

Interviewing a child: generic response to a free recall invitation

If the child provides a generic response after responding to all the **free recall invitations**, suggested in “Interviewing a child: free recall invitations”, the LPA can repeat the first question, as shown in the table below.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], you told me that [<i>briefly summarize the allegation the child has made</i>]. Tell me everything from beginning to end.”
2	<i>LPA waits for child’s response.</i>

Note: It may be necessary for the LPA to use drawings to identify body parts for the child.

Interviewing a child: follow-up invitations

While interviewing a child, the LPA can repeat the child’s description of the action or occurrence that started the event. The LPA can then use the follow-up syntax in the table below to continue to prompt the child.

Step	Example LPA Interview
1	LPA: “And then what happened?”
2	<i>LPA waits for child’s response.</i>

Note: The LPA can repeat the question above as often as needed until the LPA has a complete description of the alleged event.

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3-2427: Exploring Substantive Issues, Continued

Interviewing a child: time segmenting invitations

Once the LPA has introduced substantive issues into an interview with a child, the LPA next focuses the interview by asking the child about a specific event in time. Example language for the LPA is shown in the table below.

Step	Example LPA Interview
1	LPA: “You have told me so many things and helped me understand what happened. Now, <i>[child’s name]</i> , I want to ask you more questions about <i>[incident]</i> .”
2	<i>LPA waits for child’s response.</i>
3	LPA: “ <i>[child’s name]</i> , think back to that <i>[time, day, night]</i> and please tell me everything that happened from the moment <i>[an activity the child mentioned]</i> to the moment <i>[a subsequent activity the child mentioned]</i> .”
4	<i>LPA waits for child’s response.</i>

Note: The LPA may use this question as often as needed to ensure that all parts of the incident are elaborated.

Interviewing a child: cued invitations

In addition to other interview prompts that can be used when a LPA is interviewing a child, the LPA can also use **cued invitations**. These can have two formats, as shown below:

- **LPA:** “Tell me more about *[activity, object, feeling, thought]*.”
- **LPA:** “*[child’s name]*, you mentioned *[activity, object, feeling, thought]*. Tell me more about that.” Use this question as often as needed.

Note: The LPA must exhaust free-recall invitations before proceeding to other question types.

Continued on next page

3-2427: Exploring Substantive Issues, Continued

Interviewing a child: directive questions

After exhaustive use of **open-ended** questions (free recall invitations and cued invitations) when interviewing a child, the LPA can use **directive questions** if some central details of the allegation are still missing or unclear.

An example of directive questioning is shown in the table below. When directive questions are used, it is important to pair them with open-ended questions whenever possible (the addition of an open-ended question is shown in Step 3 of the example).

Step	Example LPA Interview
1	LPA: “[child’s name], you said that [activity, object, feeling, thought].”
2	<i>LPA waits for child’s response.</i>
3	LPA: “Tell me more about that.”
4	<i>LPA waits for child’s response.</i>

Interviewing a child: multiple incidents

If, during an interview with a child, the child mentions a single incident when replying to questions, the LPA must determine if the mentioned incident did happen **only once**, or if it happened on **multiple occasions**.

The table below shows an example of how the LPA can make this determination.

Step	Example LPA Interview
1	LPA: “[child’s name], what you just told me, did that happen one time or more than one time?”
2	<i>LPA waits for child’s response.</i>

Note: If the child has said that such incidents happened more than one time, it is best for the LPA to go back to “Interviewing a child: free recall invitations” and start the substantive issues phase again, exploring the additional incidents. It is often best to explore the last, first, or best-remembered incident.

Continued on next page

3-2427: Exploring Substantive Issues, Continued

Interviewing a child: break

After discussing the details of the allegation(s) with a child, the LPA lets the child know that it is time for a brief break in the interview, using the example statement below:

LPA: “[*child’s name*], now I want to make sure I have understood everything you said and see if there’s anything else I need to ask. I will take a couple minutes to [*think about what you told me, go over my notes*].”

During the break time, it is best for the LPA to

- **review** the information received so far
- **check** for any missing information, and
- **plan** the rest of the interview.

Note: It is best for the LPA to formulate option-posing questions in writing during the break, then consider replacing them with open-ended questions or directive questions if it seems advantageous to do so as the interview continues. For more information, see “Interviewing a child: option-posing questions”.

Interviewing a child: option-posing questions

Option-posing questions elicit information that has not already been mentioned by the child. The LPA should only ask option-posing questions if they have tried other approaches and realize that some forensically important information is still missing.

Note: Children’s responses to option-posing questions become longer as they get older.

Important! It is very important to pair option-posing questions with open invitations whenever possible.

Continued on next page

3-2427: Exploring Substantive Issues, Continued

Option-posing questions vs. open invitations

The table below compares option-posing questions and open invitations.

Note: In cases where multiple incidents have taken place, the interviewer directs the child to describe the most relevant incidents in their own words.

Question Attributes	Option-Posing Questions	Open Invitations
Response is specific	Yes	No
Response is broad	No	Yes
Addresses concepts, subjects, or details previously mentioned by the child	Yes	Yes
Answered with one or two words	Yes	No
Answered with longer sentences	No	Yes
Elicits responses from the child not suggested by the interviewer	Yes	Yes
Response is limited	Yes	No
Response is not limited	No	Yes
Must be formulated so that question clarifies information	Yes	Yes

Example: option-posing questions vs. open invitations

The table below provides examples of both option-posing questions and open invitations.

Question Type	Examples
Option-posing questions	<ul style="list-style-type: none"> • “Had you met him/her before?” • “Did it hurt?”
Open invitations	<ul style="list-style-type: none"> • “Tell me everything that happened.” • “Tell me more about that.”

Continued on next page

3-2427: Exploring Substantive Issues, Continued

Interviewing a child: obtaining missing details

When interviewing a child, before moving to the next incident, the LPA must make sure all the missing details about each specific incident have been obtained. An example of a detail question is shown in the table below.

Note: Whenever possible, the detail question is followed up with an open invitation, as shown in Step 3.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], when you told me about [<i>specific incident embedded in time and place</i>] you mentioned [<i>activity, object, feeling, thought</i>]. [<i>Question about a detail for the child to confirm or deny</i>]?”
2	<i>LPA waits for child’s response.</i>
3	LPA: “Tell me everything about that [<i>activity, object, feeling, thought</i>].”
4	<i>LPA waits for child’s response.</i>

Example: “Sarah, when you told me about being in the kitchen with Lewis, were there other people with you?”

Interviewing a child: use of diagrams and dolls when discussing abuse

If using an anatomically-correct doll or diagram to obtain responses in an interview with a child, it is important for the interviewer to start from the head and move systematically down to the feet. This will help eliminate any importance placed on private parts.

Note: The interviewer must remember not to use technical terms. It is best to use the child’s own terminology when possible.

3-2428: Disclosure Information

Interviewing a child: disclosure

Prior to ending an interview with a child, the Licensing Program Analyst (LPA) must determine whether the child has disclosed the described incident(s) to anyone else. This **disclosure information** is preferably obtained by asking the child open-ended questions regarding who else they have spoken to about the incident(s).

Interviewing a child: summarizing the interview

Before obtaining disclosure information, the LPA must summarize the interview for the child as shown in the table below.

Step	Example LPA Interview
1	LPA: “You’ve told me why you came to talk to me today. You’ve given me <i>[lots of]</i> information and that really helps me to understand what happened.”
2	<i>LPA waits for child’s response.</i>

Interviewing a child: obtaining disclosure information

The LPA, during an interview with a child, proceeds to asking the child for disclosure information based on whether the child has already mentioned an incidence of disclosure, as shown in the table below.

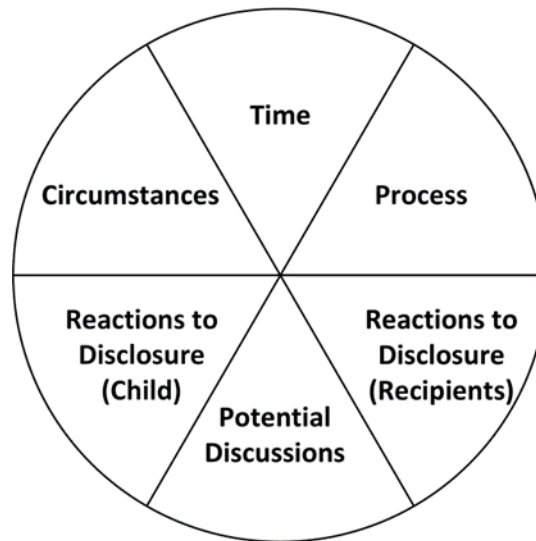
If ...	Then ...
the child has mentioned telling someone about the incident(s)	the LPA says: “Now, I want to understand how other people found out about <i>[the last incident]</i> .”
the child has not mentioned telling anyone about the incident(s)	the LPA asks: “Does anybody else know what happened?”

Continued on next page

3-2428: Disclosure Information, Continued

Interviewing a child: exploring the disclosure process

Once the issue of disclosure has been introduced in an interview with a child, the interviewer explores the disclosure process by addressing the specifics of each disclosure mentioned by the child, as illustrated in the graphic below.



Note: When obtaining these specifics of disclosure information, it is best to use open-ended questions whenever possible.

3-2429: Ending the Interview

Interviewing a child: how to end an interview

To end an interview with a child, the Licensing Program Analyst (LPA) initiates a neutral conversation, as shown in the table below.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], what are you going to do after we finish talking?”
2	<i>LPA waits for child’s response.</i>
3	<i>LPA talks to the child for a couple of minutes about a neutral topic.</i>

Documenting an interview

It is essential for the LPA to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

3-2440: Interviewing Older Children and Teens

Overview

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3-2441: Interviewing Older Children and Teens

NICHD best practices

When a complaint alleges abuse against a minor, a Licensing Program Analyst (LPA) may need to conduct an interview an older child or teenager as part of the investigation.

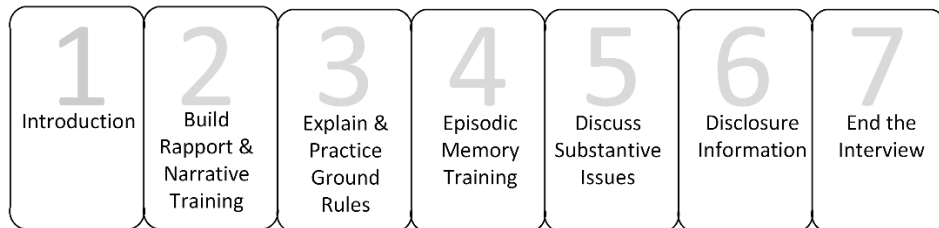
Evidence-based guidelines described in this section, developed at the National Institute of Child Health and Human Development (NICHD), are best practices provided for informational purposes. The NICHD guidelines are based on research of children’s

- communication skills
- memory
- social knowledge, and
- social tendencies.

Note: Additional information on the NICHD Investigative Interview Protocol can be located at: www.NICHDprotocol.com.

The NICHD Investigative Interview Protocol

This is the NICHD Investigative Interview Protocol:



Regressive behaviors in cases of abuse

Regressive behaviors are a psychological defense mechanism that an older child or teen may use temporarily to cope with extreme stress. The LPA must try to determine the event that triggered the regressive behavior.

Examples of regressive behaviors include, but are not limited to

- aggression/harm to others
- bed wetting
- change in sleep patterns
- extreme defiance/irritability
- nightmares/night terrors, and
- withdrawing from activities.

Continued on next page

3-2441: Interviewing Older Children and Teens, Continued

Challenging behaviors

A LPA interviewing an older child or teen must be aware of, and respond appropriately to, the behaviors described in the table below.

Behavior	Appropriate LPA Response
Sexualized behavior	<ul style="list-style-type: none"> • Be direct. • Re-state the purpose of the interview. • Keep focused on the interview.
Out of control, verbally abusive, or assaultive	<ul style="list-style-type: none"> • Honor request and leave if the older child/teen asks. • End the interview if needed.
Refusal	<ul style="list-style-type: none"> • Acknowledge that you are a stranger. • LPA: "I understand that this might feel awkward because you don't know me, but I'm here to help and I'd like to."
Mistrust	<ul style="list-style-type: none"> • Be honest. • Be yourself.
"You don't understand."	<ul style="list-style-type: none"> • LPA: "You're right. Can you help me understand?" • Find opportunities to empathize.

3-2442: Beginning the Interview and Building Rapport

Beginning the interview: goals

When beginning an interview and building rapport, the Licensing Program Analyst (LPA) must try to

- establish a relationship
- determine maturity level, cognitive and verbal abilities, and
- communicate in a developmentally-appropriate manner.

How does the interview begin?

An interview with an older child or teen begins with the LPA

- introducing themselves
- explaining their role, and
- ensuring that the older child or teen has everything they need.

The table below shows a typical introduction. The LPA may amend this introduction as appropriate.

Step	Example LPA Interview
1	LPA: "Hello, <i>[child's name]</i> , I am glad to meet you today. How are you?"
2	<i>LPA waits for response.</i>
3	LPA: "My name is <i>[name]</i> and my job is to talk to <i>[kids, teens]</i> about things that have happened to them. Are you comfortable? Can I do anything to make you more comfortable?"
4	<i>LPA waits for response.</i>

Continued on next page

3-2442: Beginning the Interview and Building Rapport, Continued

Interviewing an older child or teen: building rapport

When conducting an interview with an older child or teen, it is important to build rapport with the interview subject. **Building rapport** means getting to know the older child or teen.

The table below shows a sample interview scenario in which the older child or teen is fully responsive to the LPA.

Step	Example LPA Interview
1	LPA: “Now, <i>[child’s name]</i> , I want to get to know you better. Tell me about the things you like to do.”
2	<i>LPA waits for response.</i>
3	<i>LPA follows up with small talk about something mentioned in the child’s response.</i>

The table below shows a sample interview scenario in which the older child or teen is less responsive to the LPA.

Step	Example LPA Interview
1	LPA: “Now, <i>[child’s name]</i> , I want to get to know you better. Tell me about the things you like to do.”
2	<i>Child or teen does not respond or gives a short answer.</i>
3	LPA: “I know this is the first time we have met, and it might feel weird to talk to me because I’m a stranger. But, I’m asking questions about you so I can get to know you better and help you.”

Continued on next page

3-2442: Beginning the Interview and Building Rapport, Continued

Interviewing an older child or teen: is the teen a direct witness?

When interviewing an older child or teen regarding an allegation, it is important to determine if the child is a direct witness to the event. The tables below provide guidance when determining if the older child or teen is a direct witness to a particular event and the correct response by the LPA.

If ...	Then ...
the older child or teen actually saw or heard the event	the older child or teen is a direct witness.
the older child or teen did not actually see or hear the event	the child is not a direct witness.

If ...	Then ...
the older child or teen is a direct witness.	the LPA continues with the sequence of interview prompts.
the child is not a direct witness.	the LPA asks how the older child or teen obtained the information.

Note: A victim or witness may not want to disclose information because they don't want to get involved or make things public. The LPA must let them know the victim or witness will help to prevent this from occurring again.

When interviewing an older child or teen victim or witness

Important! When interviewing an older child or teen who is a victim or a witness, the LPA should try to find out what the child or teen was told about

- the LPA, and
- the LPA's purpose for speaking with the teen.

The LPA must also try to determine whether the child or teen has any concerns that may prevent or hinder disclosure.

Continued on next page

3-2442: Beginning the Interview and Building Rapport, Continued

Interviewing an older child or teen: determining developmental level

The LPA must not assume maturity. Chronological and developmental age may not be the same in older children and teens.

If the LPA suspects that the chronological age of an older child or teen does not match their developmental level, the procedure in the table below can be applied.

Step	Action
1	The LPA asks the older child or teen to tell the difference between a truth and a lie.
2	The LPA asks the older child or teen what happens when they don't tell the truth.

Note: The LPA must not use technical terms. It is best to use the older child or teen's own terminology when possible.

Interviewing an older child or teen: additional rapport building

Often in interviews with older children or teens, additional rapport building is needed. The table below provides the LPA additional strategies for getting to know the older child or teen if the older child or teen continues showing avoidance or resistance.

Rapport-Building Strategy	Example LPA Interview
Invite the older child or teen to talk about a neutral topic chosen before the interview	LPA: "I heard you like <i>[chosen topic]</i> ." <i>LPA asks follow-up questions about the chosen topic.</i>
Describe a unique belonging or particular interest (clothing, music, etc.)	LPA: "I like music too. What are you listening to?"
Ask about school, friends, favorite after-school activities	<ul style="list-style-type: none"> • LPA: "Where do you go to school?" • LPA: "What's it like?" • LPA: "Is it fun?" • LPA: "Is it easy?" • LPA: "What are the other kids there like?" • LPA: "What do you do when you get home?"

3-2443: Narrative Training

What is Narrative Training?

Narrative Training is the stage of the NICHD Investigative Interview Protocol which allows time for the older child or teen to practice describing a neutral, recent event in detail before discussing more difficult subjects.

The table below provides three examples of ways for the Licensing Program Analyst (LPA) to engage an older child or teen in narrative training.

Step	Example LPA Interview
1	<ul style="list-style-type: none"> • LPA: “Now, <i>[child’s name]</i>, tell me more about <i>[activity older child/teen already mentioned]</i>.” • LPA: “<i>[child’s name]</i>, tell me about something fun that has happened to you at school.” • LPA: “Tell me about <i>[something fun the older child or teen mentioned]</i>.”
2	<i>LPA waits for response.</i>

Note: At this stage of the interview, the LPA must not mention the location in which the alleged abuse may have taken place.

Discussion of neutral events

When practicing discussing neutral events with an older child or teen, it is best to

- avoid discussing TV shows or fantasy
- use various invitations to ask about different topics, and
- use one of those invitations to focus on the older child or teen’s
 - thoughts
 - feelings, or
 - emotions.

Continued on next page

3-2443: Narrative Training, Continued

Discussing an unpleasant event: part 1

After discussing a pleasant event, the next part of Narrative Training with an older child or teen is to practice discussing an unpleasant event.

The table below shows how a LPA may transition an older child or teen to discussion of an unpleasant event.

Step	Example LPA Interview
1	LPA: You told me about something <i>[fun, pleasant]</i> that happened to you. Now tell me about something unpleasant that happened to you at <i>[school, other place].</i>
2	<i>LPA waits for response.</i>

Note: If the older child or teen reveals distressing information, it is best for the LPA to explore that information briefly while making supportive statements. For examples of supportive statements, see 3-2446: Transition to Substantive Issues.

Discussing an unpleasant event: part 2

When discussing an unpleasant event, the LPA must remember to

- ask various questions about different topics, and
- use one topic invitation to focus on **thoughts, feelings, or emotions.**

Discussing an unpleasant event: part 3

The table below shows a sample interview scenario where the LPA transitions an older child or teen through discussion of an unpleasant event.

Step	Example LPA Interview
1	LPA: “Please tell me about <i>[something the older child or teen mentioned].</i> ”
2	<i>LPA waits for response.</i>
3	LPA: “You told me about <i>[the unpleasant event]</i> . Have you told an adult about that?”
4	<i>LPA waits for response. If the older child or teen says “No,” proceed to Step 5.</i>
5	LPA: “Would you like to tell someone? I can help you if you need it.”
6	<i>LPA waits for response.</i>

3-2444: Explaining and Practicing Ground Rules

What are ground rules?

Ground rules are basic principles. Establishing ground rules provides context, sets expectations, and empowers the older child or teen to

- say if they don't understand or don't know the answer to a question, and
- correct the Licensing Program Analyst (LPA) if needed.

Interviewing an older child or teen: when a question is not understood

The table below shows the best way for the LPA to teach an older child or teen how to respond when a question is not understood.

Step	Example LPA Interview
1	LPA: “[child’s name], I’m interested in you and I’ll be asking you lots of questions today. If I ask a question that you don’t understand, just say, ‘[LPA’s name], I don’t understand.’ Okay, [child’s name]?”
2	<i>LPA pauses.</i>
3	LPA: “If I don’t understand what you say, I’ll ask you to explain.”
4	<i>LPA pauses.</i>

Interviewing an older child or teen: when an answer is not known

The table below shows the best way for the LPA to teach an older child or teen how to respond when they don’t know the answer to a question.

Step	Example LPA Interview
1	LPA: “If I ask a question, and you don’t know the answer, just tell me, ‘I don’t know.’”
2	<i>LPA pauses.</i>

Continued on next page

3-2444: Explaining and Practicing Ground Rules, Continued

Interviewing an older child or teen: when interviewer is incorrect

The table below explains how to teach an older child or teen how to respond when the LPA makes an incorrect statement.

Step	Example LPA Interview
1	LPA: “If I make a mistake and say something <i>[wrong, that is incorrect]</i> , you should tell me. Okay, <i>[child’s name]</i> ?”
2	<i>LPA waits for answer.</i>

Note: The LPA must always be aware of the older child or teen’s responses and reactions. If the interview becomes unproductive or upsetting, it is best to end the interview.

Interviewing an older child or teen: summary of purpose

When interviewing an older child or teen, the final step of explaining and practicing ground rules is to provide the older child or teen with a short explanation of purpose. The LPA may amend the following example, as appropriate:

LPA: “Part of my job is to talk to *[kids, teens]* about things that have happened to them. I meet with lots of *[kids, teens]* so they can tell me the truth about things that have happened to them. *[child’s name]*, it is very important that you tell me the truth today about things that have happened to you.”

3-2445: Episodic Memory Training

What is the episodic memory training phase?

Episodic memory is a long-term memory of a specific event that was personally experienced at a particular time or place in the past.

In the NICHD Investigative Interview Protocol for interviewing children, the child practices recalling a neutral or positive event, from beginning to end, before disclosing information about alleged traumatic events. This is referred to as the “episodic memory training phase” of this interviewing protocol.

Interviewing an older child or teen: main invitation

Ideally, at the start of the “episodic memory training phase” of an interview with an older child or teen, the Licensing Program Analyst (LPA) has identified a recent, short, positive and meaningful event in which the older child or teen actively participated.

The table below shows examples of how the interviewer can initiate the main invitation to the older child or teen to respond.

If ...	Then ...
an event was previously identified by the LPA	the LPA could say: “A few <i>[days, weeks]</i> ago was a <i>[holiday, birthday party, other event]</i> . Tell me everything that happened during <i>[the event]</i> , from beginning to end. Do the best you can.”
an event was not previously identified by the LPA	the LPA could say: “Did you do something special recently? Like go to a birthday party?”
<ul style="list-style-type: none"> the LPA has not identified an event for the older child or teen to recall, or the older child or teen does not identify a suitable event in response to earlier questioning 	the LPA could say: “So, I want you to tell me everything that happened <i>[today, yesterday]</i> , from the time you woke up.”

Continued on next page

3-2445: Episodic Memory Training, Continued

Interviewing an older child or teen: follow-up invitations

The table below shows examples of how the LPA can provide **follow-up invitations** to the older child or teen to respond, after the main invitation has been issued.

Step	Example LPA Interview
1	LPA: “And then what happened, <i>[child’s name]</i> ?”
2	<i>LPA waits for answer.</i>
3	LPA: “Thank you, <i>[child’s name]</i> , you have told me many things. I want to ask you some more questions about what you just told me.”

Note: The LPA may ask, “And then what happened?” as often as needed until the older child or teen has given a full account of the event.

Interviewing an older child or teen: time segmentation invitations

Time segmentation is a technique that can be employed when interviewing an older child or teen, to direct the older child or teen to describe an event from beginning to end. It is best for the LPA to try to use three separate time segmentation invitations over the course of an interview.

The table below shows a continuation of the discussion of the positive event selected by either the LPA or the older child or teen for the episodic memory training phase of the interview.

Step	Example LPA Interview
1	LPA: “ <i>[child’s name]</i> , I would like you to tell me everything about <i>[the event]</i> .”
2	<i>LPA waits for response.</i>
3	LPA: “Please tell me everything that happened from the moment <i>[an activity the older child or teen mentioned]</i> to the moment <i>[a subsequent activity]</i> .”

Continued on next page

3-2445: Episodic Memory Training, Continued

Interviewing an older child or teen: time segmentation starting with an event

The table below shows an example of how the LPA can respond during an interview with an older child or teen if the older child or teen has difficulty understanding delineated segments in a time segmentation invitation.

Step	Example LPA Interview
1	LPA: “Please tell me everything that happened from the moment [<i>an activity the older child or teen mentioned</i>].”
2	<i>LPA waits for response.</i>
3	LPA: “Thank you, [<i>child’s name</i>], for telling me that. You [<i>talk, speak, express yourself</i>] very clearly, and that helps me understand what you are saying.”

Interviewing an older child or teen: cued invitations

During the episodic memory training phase of an interview with an older child or teen, it is best for the LPA to try to include the **cued invitations** listed below:

- **LPA:** Tell me more about [*activity/object/thought/feeling*].
- **LPA:** Earlier you spoke about [*activity/object/thought/feeling*]. Tell me more about that.

Note: Including three separate cued invitations is optimal, but the LPA may adjust the number depending on the older child or teen’s reactions. The LPA must also remember to focus on the older child or teen’s thoughts and feelings.

Interviewing an older child or teen: wrap up episodic memory training

Just prior to concluding the episodic memory training phase of an interview with an older child or teen, it is important for the LPA to show appreciation to the older child or teen for cooperating, and to repeat the importance of describing events accurately, as shown in the following example statement:

LPA: [*child’s name*], thank you for telling me about [*event*]. When we talk today, it is very important that you tell me everything about things that have really happened to you.”

Continued on next page

3-2445: Episodic Memory Training, Continued

Interviewing an older child or teen: check in with the older child or teen

The final action by the LPA during the episodic memory training phase of an interview with an older child or teen, is to check in with the older child or teen before proceeding to the next phase of the interview. The table below shows an example of an LPA’s check-in question.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], how are you feeling so far in our conversation?”
2	<i>LPA waits for response.</i>

3-2446: Transition to Substantive Issues

What is the substantive phase?

After the episodic training phase of an interview with an older child or teen, when the child has practiced talking about recent neutral events, the Licensing Program Analyst (LPA) next initiates discussion of substantive issues. This is referred to as the **substantive phase** of the interview.

Note: If the older child or teen makes an allegation at any time during this phase, the LPA skips to exploring substantive issues. For more information, see 3-2447: Exploring Substantive Issues.

Interviewing an older child or teen: first prompt

To transition to talking about the allegation(s) when interviewing an older child or teen, the LPA moves to the first prompt, as shown in the table below.

Step	Example LPA Interview
1	LPA: “Now that we know each other a little better, I want to talk to you about why <i>[you are, I am]</i> here today.”
2	<i>LPA waits for response.</i>

Interviewing an older child or teen: if the child or teen reports an irrelevant event

In transitioning to discussion of the allegation(s) during an interview with an older child or teen, after the first prompt, the child or teen may report something irrelevant. If this occurs, the LPA acknowledges the response and encourages the child or teen to stay on topic by using the additional prompt shown in the table below.

Step	Example LPA Interview
1	LPA: “We can talk about that later, if you want. Right now, though, I want to know about something else that may have happened to you.”
2	<i>LPA waits for response.</i>

Note: The LPA must remember to wait for a response after asking each question.

Continued on next page

3-2446: Transition to Substantive Issues, Continued

Interviewing an older child or teen: prompts 2-9

After transitioning an interview with an older child or teen to substantive issues using the **first prompt**, the LPA continues with prompts 2 through 9 of the interview.

During this phase, the LPA may consult the table below to manage the interview.

If ...	Then ...
the older child or teen makes no allegation when responding to a prompt	the LPA continues to the next prompt.
the older child or teen does make an allegation when responding to a prompt	the LPA skips to exploring substantive issues. For more information, see 3-2447: Exploring Substantive Issues.

The table below outlines prompts 2 through 9.

Question	Prompt
2	LPA: “I understand that something may have happened to you. Tell me everything that happened from the beginning to the end.”
3	LPA: “As I told you, my job is to talk to <i>[kids, teens]</i> about things that might have happened to them. It is very important that you tell me why you think <i>[you are, I came]</i> here today.”
4	LPA: “I <i>[saw, heard]</i> that you <i>[have/had documented injuries, bruises]</i> on your <i>[body part]</i> . Tell me everything about <i>[those, that]</i> .”
5	LPA: “ <i>[child’s name]</i> , has anything happened to you at <i>[location, time of alleged incident]</i> ?”
6	LPA: “ <i>[child’s name]</i> , has anybody been bothering you?”
7	LPA: “ <i>[child’s name]</i> , did someone do something to you that you don’t think was right?”
8	LPA: “ <i>[child’s name]</i> , did someone <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> ?”
9	LPA: “ <i>[child’s name]</i> , I understand <i>[you, someone]</i> <i>[reported, saw]</i> <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> . I want to find out if something may have happened to you.”

Continued on next page

3-2446: Transition to Substantive Issues, Continued

Interviewing an older child or teen: the child or teen is resistant or non-responsive

If an interview with an older child or teen is met with resistance or non-responsiveness from the child or teen, it may be necessary for the LPA to end the current interview and possibly schedule another interview for another time.

The table below shows when it is best to end an interview, when to end the interview and schedule a new one, and when to continue with the current interview.

If ...	Then ...
the older child or teen expressed explicit verbal resistance and did not deny the allegations at any point	the LPA manages the resistance using the supportive statements described in 3-2426: Transition to Substantive Issues.
the older child or teen is non-responsive, resistant, or uncooperative, and the LPA believes that rapport-building will benefit from another interview	the LPA ends the interview (see 3-2429: Ending the Interview), and schedules an additional interview for rapport building.
the older child or teen shows aggression or is verbally abusive, and the LPA believes that rapport-building will not benefit from another interview	the LPA ends the interview (see 3-2429: Ending the Interview).

Interviewing an older child or teen: the child or teen had previous contact with authorities

If, when interviewing an older child or teen, the LPA becomes aware that the child or teen has had previous contact with authorities, the LPA must seek the child or teen’s response pertaining to those contacts. An example of how the LPA can question the older child or teen in this matter is shown in the table below.

Step	Example LPA Interview
1	LPA: “I’ve heard that you talked to a <i>[doctor, teacher, social worker, other professional]</i> at <i>[time, location]</i> . Please tell me what you talked about.”
2	<i>LPA waits for response.</i>

Continued on next page

3-2446: Transition to Substantive Issues, Continued

**Interviewing
an older child
or teen:
supportive
statements
(part 1)**

If an older child or teen has explicitly expressed difficulty or reluctance to disclose during an interview, but has not denied alleged abuse, the LPA may use any of the supportive statements below to reassure the child or teen.

- **LPA:** “[*child’s name*], my job is to listen to [*kids, teens*] about things that happened to them.”
- **LPA:** “[*child’s name*], I really want to know when something happens to [*kids, teens*]. That’s what I am here for.”
- **LPA:** “[*child’s name*], here [*kids, teens*] can talk about good things and bad things that have happened to them.”
- **LPA:** “[*child’s name*], my job is to try to help [*kids, teens*].”
- **LPA:** “You told me a lot about yourself. I feel I know you better and you can tell me more about [*things, both good things and bad things*] that have happened to you.”
- **LPA:** “You told me a lot about yourself, thank you for letting me know. Please go on and tell me about other things that have happened to you.”
- **LPA:** “[*child’s name*], if there is anything you want to tell me, [*I want to know/listen, it’s important for me to know/listen*].”

Note: It is best for the LPA to address the older child or teen by their first name.

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3-2446: Transition to Substantive Issues, Continued

**Interviewing
an older child
or teen:
supportive
statements
(part 2)**

If an older child or teen has not made an allegation, explicitly expressed difficulty or reluctance to disclose, and not denied alleged abuse, but independent evidence exists arousing suspicion that an allegation may have merit, the LPA may use any of the supportive statements below or in “Interviewing an older child or teen: supportive statements (part 1)” to reassure the child or teen.

- **LPA:** “[*child’s name*], [*I am, people are*] worried about you and I want to know if something may have happened to you.”
- **LPA:** “[*child’s name*], if something has happened to you and you want it to stop, you can tell me about it.”
- **LPA:** “[*child’s name*], if it is hard for you to tell, what makes it so hard?”

The LPA can follow up with the following questions, if needed:

- **LPA:** “[*child’s name*], is there anything you are concerned about?”
- **LPA:** “[*child’s name*], what would happen if you told me?”
- **LPA:** “[*child’s name*], has someone told you not to tell?”
- **LPA:** “Sometimes people think that if something happened to them, it’s their fault, but [*kids, teens*] are not responsible if things happen to them.”
- **LPA:** “It’s your choice if you want to tell me, and it’s my job to let you choose.”

Note: It is best for the LPA to address the older child or teen by their first name.

Continued on next page

3-2446: Transition to Substantive Issues, Continued

Interviewing an older child or teen: supportive statements (part 3)

If an older child or teen is overtly refusing to engage during an interview, and has explicitly expressed difficulty or reluctance to disclose, but has not denied alleged abuse, the LPA may use any of the supportive statements below – in addition to those in “Interviewing an older child or teen: supportive statements (part 1)” and “Interviewing an older child or teen: supportive statements (part 2)” – to reassure the child or teen.

- **LPA:** “[*child’s name*], I understand you are [*difficulty the older child/teen mentioned – for example: embarrassed*].” Let’s start talking and I’ll try to help you with it.”
- **LPA:** “Many [*kids, teens*] are [*difficulty the older child/teen mentioned*] and I try to help them.”
- **LPA:** “I understand you are [*difficulty the older child/teen mentioned*], tell me more about that.”
- **LPA:** “It’s your choice whether to tell and I will accept your choice.”

If ...	Then ...
the older child or teen expressed lack of confidence	LPA: “I’m sure you can talk about it well.”
the older child or teen expressed worry about something specific and the reassurance the LPA can give is true	LPA: “Do not worry, I will [<i>not tell the other kids, make sure you are not late for the bus</i>].”

Note: It is best for the LPA to address the older child or teen by their first name.

3-2447: Exploring Substantive Issues

Substantive issues phase interview skills

Throughout the entire substantive issues phase of an interview with an older child or teen, it is important for the Licensing Program Analyst (LPA) to

- preserve and enhance the rapport established with the child or teen
- continue providing supportive statements, and
- address expressed inhibitions, distress and conflicts.

Interviewing an older child or teen: free recall invitations

When interviewing an older child or teen, **free recall invitations** are various scenarios and options that a LPA can use to ask the child or teen about the alleged incident(s). The table below provides some examples of free recall invitations.

If ...	Then ...
the older child or teen mentions a specific incident	the LPA can say: “[child’s name], you told me that [briefly summarize the allegation the older child or teen has made]. Tell me everything from the beginning to the end.”
the older child or teen mentions several incidents	the LPA can say: “[child’s name], you told me that [briefly summarize the allegation the older child or teen has made]. Tell me everything about the [last time, first time, place, time, specific incident] from the beginning to the end.”
the older child or teen gives a generic description, and the LPA cannot determine the number of incidents	the LPA can say: “[child’s name], you told me that [briefly summarize the allegation the older child or teen has made]. Did that happen one time or more than one time?”

Note: The LPA must always remember to wait for a response after prompting the older child or teen.

Continued on next page

3-2447: Exploring Substantive Issues, Continued

Interviewing an older child or teen: generic response to a free recall invitation

If the older child or teen provides a generic response after responding to all the **free recall invitations**, suggested in “Interviewing an older child or teen: free recall invitations”, the LPA can repeat the first question, as shown in the table below.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], you told me that [<i>briefly summarize the allegation the older child or teen has made</i>]. Tell me everything from beginning to end.”
2	<i>LPA waits for response.</i>

Interviewing an older child or teen: follow-up invitations

While interviewing an older child or teen, the Licensing Program Analyst (LPA) can repeat the child or teen’s description of the action or occurrence that started the event. The LPA can then use the follow-up syntax in the table below to continue to prompt the child or teen.

Step	Action
1	LPA: “And then what happened?”
2	<i>LPA waits for child’s response.</i>

Note: The LPA can repeat the question above as often as needed until the LPA has a complete description of the alleged event.

Continued on next page

3-2447: Exploring Substantive Issues, Continued

Interviewing an older child or teen: time segmenting invitations

Once the LPA has introduced substantive issues into an interview with an older child or teen, the LPA next focuses the interview by asking the child or teen about a specific event in time. Example language for the LPA is shown in the table below.

Step	Example LPA Interview
1	LPA: “You have told me so many things and helped me understand what happened. Now, <i>[child’s name]</i> , I want to ask you more questions about <i>[incident]</i> .”
2	<i>LPA waits for response.</i>
3	LPA: “ <i>[child’s name]</i> , think back to that <i>[time, day, night]</i> and please tell me everything that happened from the moment <i>[an activity the older child or teen mentioned]</i> to the moment <i>[a subsequent activity the older child or teen mentioned]</i> .”
4	<i>LPA waits for response.</i>

Note: The LPA may use this question as often as needed to ensure that all parts of the incident are elaborated.

Interviewing a child: cued invitations

In addition to other interview prompts that can be used when a LPA is interviewing an older child or teen, the LPA can also use **cued invitations**. These can have two formats, as shown below:

- **LPA:** “Tell me more about *[activity, object, feeling, thought]*.”
- **LPA:** “*[child’s name]*, you mentioned *[activity, object, feeling, thought]*. Tell me more about that.” Use this question as often as needed.

Note: The LPA must exhaust free-recall invitations before proceeding to other question types.

Continued on next page

3-2447: Exploring Substantive Issues, Continued

Interviewing an older child or teen: directive questions

After exhaustive use of **open-ended** questions (free recall invitations and cued invitations) when interviewing an older child or teen, the LPA can use **directive questions** if some central details of the allegation are still missing or unclear.

An example of directive questioning is shown in the table below. When directive questions are used, it is important to pair them with open ended questions whenever possible (the addition of an open-ended question is shown in Step 3 of the example).

Step	Example LPA Interview
1	LPA: “[child’s name], you said that [activity, object, feeling, thought].”
2	<i>LPA waits for response.</i>
3	LPA: “Tell me more about that.”
4	<i>LPA waits for response.</i>

Interviewing an older child or teen: multiple incidents

If, during an interview with an older child or teen, the child or teen mentions a single incident when replying to questions, the LPA must determine if the mentioned incident did happen **only once**, or if it happened on **multiple occasions**.

The table below shows an example of how the LPA can make this determination.

Step	Action
1	LPA: “[child’s name], what you just told me, did that happen one time or more than one time?”
2	<i>LPA waits for child’s response.</i>

Note: If the older child or teen has said that such incidents happened more than one time, it is best for the LPA to go back to “Interviewing an older child or teen: free recall invitations” and start the substantive issues phase again, exploring the additional incidents. It is often best to explore the last, first, or best-remembered incident.

Continued on next page

3-2447: Exploring Substantive Issues, Continued

Interviewing an older child or teen: break

After discussing the details of the allegation(s) with an older child or teen, the LPA lets the child or teen know that it is time for a brief break in the interview, using the example statement below:

LPA: “[*child’s name*], now I want to make sure I have understood everything you said and see if there’s anything else I need to ask. I will take a couple minutes to [*think about what you told me, go over my notes*].”

During the break time, it is best for the LPA to

- **review** the information received so far
- **check** for any missing information, and
- **plan** the rest of the interview.

Note: It is best for the LPA to formulate option-posing questions in writing during the break, then consider replacing them with open-ended questions or directive questions if it seems advantageous to do so as the interview continues. For more information, see “Interviewing a child: option-posing questions”.

Interviewing an older child or teen: option-posing questions

Option-posing questions elicit information that has not already been mentioned by the older child or teen. The LPA should only ask option-posing questions if they have tried other approaches, and realize that some forensically important information is still missing.

Note: Children’s responses to option-posing questions become longer as they get older.

Important! It is very important to pair option-posing questions with open invitations whenever possible.

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3-2447: Exploring Substantive Issues, Continued

Option-posing questions vs. open invitations

The table below compares option-posing questions and open invitations.

Note: In cases where multiple incidents have taken place, the interviewer directs the older child or teen to describe the most relevant incidents in their own words.

Question Attributes	Option-Posing Questions	Open Invitations
Response is specific	Yes	No
Response is broad	No	Yes
Addresses concepts, subjects, or details previously mentioned by the child	Yes	Yes
Answered with one or two words	Yes	No
Answered with longer sentences	No	Yes
Elicits responses from the child not suggested by the interviewer	Yes	Yes
Response is limited	Yes	No
Response is not limited	No	Yes
Must be formulated so that question clarifies information	Yes	Yes

Example: option-posing questions vs. open invitations

The table below provides examples of both option-posing questions and open invitations.

Question Type	Examples
Option-posing questions	<ul style="list-style-type: none"> • “Had you met him/her before?” • “Did it hurt?”
Open invitations	<ul style="list-style-type: none"> • “Tell me everything that happened.” • “Tell me more about that.”

Continued on next page

3-2447: Exploring Substantive Issues, Continued

Interviewing an older child or teen: obtaining missing details

When interviewing an older child or teen, before moving to the next incident, the LPA must make sure all the missing details about each specific incident have been obtained. An example of a detail question is shown in the table below.

Note: Whenever possible, the detail question is followed up with an open invitation, as shown in Step 3.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], when you told me about [<i>specific incident embedded in time and place</i>] you mentioned [<i>activity, object, feeling, thought</i>]. [<i>Question about a detail for the child to confirm or deny</i>]?”
2	<i>LPA waits for child’s response.</i>
3	LPA: “Tell me everything about that [<i>activity, object, feeling, thought</i>].”
4	<i>LPA waits for child’s response.</i>

Example: “Sarah, when you told me about being in the kitchen with Lewis, were there other people with you?”

Interviewing an older child or teen: signs of programming or coaching

Important! When interviewing an older child or teen, the interviewer must be aware of the possibility of **programming**. This is when the child or teen has been coached on what information to disclose or withhold.

Individuals who have been coached

- do not know specific details
- tell the story systematically, because that is how they were taught, and
- have difficulty picking up in the middle of the story.

3-2448: Disclosure Information

Interviewing an older child or teen: disclosure

Prior to ending an interview with a child, the Licensing Program Analyst (LPA) must determine whether the child has disclosed the described incident(s) to anyone else. This **disclosure information** is preferably obtained by asking the child open-ended questions regarding who else they have spoken to about the incident(s).

Interviewing an older child or teen: summarizing the interview

Before obtaining disclosure information, the LPA must summarize the interview for the older child or teen as shown in the table below.

Step	Example LPA Interview
1	LPA: “You’ve told me why you came to talk to me today. You’ve given me <i>[lots of]</i> information and that really helps me to understand what happened.”
2	<i>LPA waits for response.</i>

Interviewing an older child or teen: obtaining disclosure information

The LPA, during an interview with an older child or teen, proceeds to asking the child or teen for disclosure information based on whether the child or teen has already mentioned an incidence of disclosure, as shown in the table below.

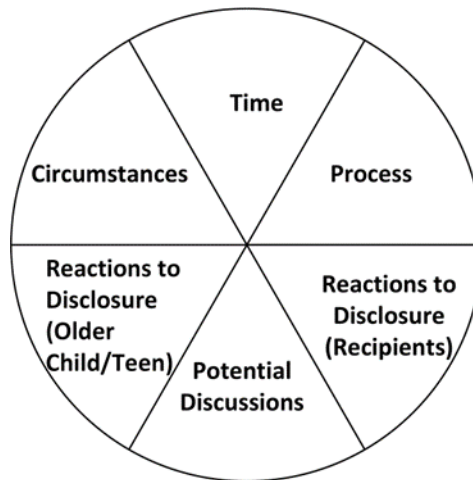
If ...	Then ...
the older child or teen has mentioned telling someone about the incident(s)	the LPA says: “Now, I want to understand how other people found out about <i>[the last incident].</i> ”
the older child or teen has not mentioned telling anyone about the incident(s)	the LPA asks: “Does anybody else know what happened?”

Continued on next page

3-2448: Disclosure Information, Continued

Interviewing an older child or teen: exploring the disclosure process

Once the issue of disclosure has been introduced in an interview with an older child or teen, the interviewer explores the disclosure process by addressing the specifics of each disclosure mentioned by the child or teen, as illustrated in the graphic below.



Note: When obtaining these specifics of disclosure information, it is best to use open-ended questions whenever possible.

3-2449: Ending the Interview

Interviewing an older child or teen: how to end the interview

To end an interview with an older child or teen, the Licensing Program Analyst (LPA) initiates a neutral conversation, as shown in the table below.

Step	Example LPA Interview
1	LPA: “[<i>child’s name</i>], what are you going to do after we finish talking?”
2	<i>LPA waits for response.</i>
3	<i>LPA talks to the child or teen for a couple of minutes about a neutral topic.</i>

Documenting the interview

It is essential for the Licensing Program Analyst to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

3-2460: Interviewing Dependent Adults and the Elderly

Overview

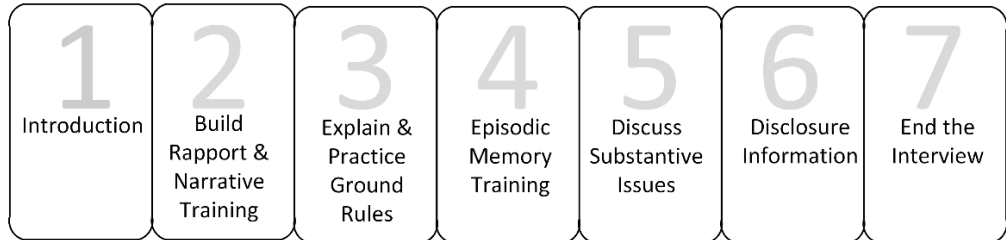
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3-2461: Meeting Staff and Persons in Care

Overview of interview process

The graphic below shows the process for interviewing dependent adults and the elderly after arriving at the facility and meeting staff and persons in care.



Note: These guidelines are best practices provided for informational purposes only.

Preparations for meeting persons in care and staff

Ideally, when conducting interviews of persons in care and facility staff, the Licensing Program Analyst (LPA) has completed the following **prior** to arriving at the facility for interviews:

- obtained all names of the persons in care, including nicknames
- determined who is on the premises, and who is off-site, and
- if off-site, determine when persons in care will return.

If the LPA needs to complete any of the above after arriving at the facility, this may be done when initially meeting staff and persons in care.

Continued on next page

3-2461: Meeting Staff and Persons in Care, Continued

Meeting with staff and the licensee

After the entrance interview, the LPA will talk more with the licensee and staff. Below is a table showing examples of common topics and questions that an LPA may ask the licensee and staff before starting interviews.

Topic	Example LPA Questions
Meeting persons in care	<ul style="list-style-type: none"> • LPA: “Can you show me where I can conduct interviews privately?” • LPA: “Can you introduce me to everyone here today?” • LPA: “Is anyone off-site today? When will they return?”
Behavior of persons in care	<ul style="list-style-type: none"> • LPA: “Have persons in care every displayed aggression? Why?” • LPA: “How do staff handle behavior problems?” • LPA: “Have persons in care ever had problems with each other?”
Daily routines	<ul style="list-style-type: none"> • LPA: “Are there house rules that persons in care must <i>[sign, obey]</i>?” • LPA: “What is the typical bedtime?” • LPA: “What do they do in their free time?”
Care and supervision	<ul style="list-style-type: none"> • LPA: “Has everyone eaten today? When?” • LPA: “Is everyone current on their daily medications? If not, who still needs it?” • LPA: “Are there daily activities scheduled for today? What are they?”

Note: The LPA must separate the licensee or administrator from persons in care when asking questions (especially from line-of-sight).

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3-2461: Meeting Staff and Persons in Care, Continued

Meeting persons in care

When meeting persons in care, The LPA must be friendly and engaging. The table below provides a seven-step process for approaching persons in care after the LPA arrives at the facility.

Step	Actions and Examples
1	<i>Initial approach:</i> <ul style="list-style-type: none"> • The LPA is calm, cool and collected. • The LPA is friendly.
2	<i>Address the group:</i> <ul style="list-style-type: none"> • LPA: “Hi, my name is Jane and I’m with CCL.”
3	<i>Meet and greet:</i> <ul style="list-style-type: none"> • Smile and shake hands. • LPA: “Tell me your name.” • Make an observation or compliment.
4	<i>Identify the “leader”:</i> <ul style="list-style-type: none"> • The LPA asks the leader their name, how long they’ve lived at the facility, etc.
5	<i>Start the conversation:</i> <ul style="list-style-type: none"> • LPA: “Hey, where do people meet here, when they want to talk in private?”
6	<i>Select the next person in care:</i> <ul style="list-style-type: none"> • LPA: “My name is John; what’s your name? I’m so glad to meet you. Would it be okay if we met to talk for a couple of minutes?”
7	<i>Provide reassurance:</i> <ul style="list-style-type: none"> • LPA to the leader: “I will be back in a few minutes to talk with you.” • The LPA smiles while speaking.

Supporting persons in care to feel at ease

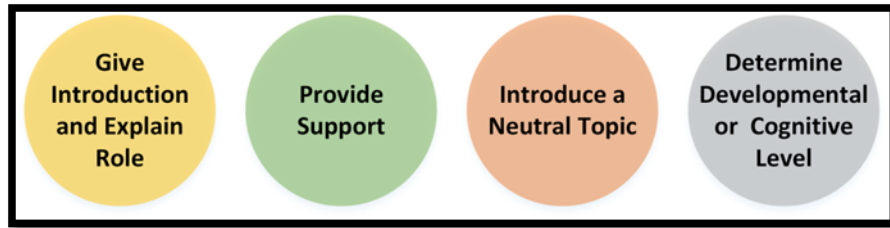
When meeting and greeting persons in care, making friendly observations can help the persons in care feel at ease. Some comments or observations the LPA can use include:

- **LPA:** “I love puzzles! I have one that looks just like yours!”
- **LPA:** “I see you have a garden. I like planting flowers too.”
- **LPA:** “I’ve been wanting to meet you; can we talk later? I’m going to meet with *[person]*, can I come talk to you after that?”

3-2462: Introduction and Building Rapport

Getting to know the person in care

Before an interview with a dependent adult or elderly person in care, the Licensing Program Analyst (LPA) takes some time getting to know the person. In the rapport building stage, the LPA engages in four actions, shown in the graphic below.



Interviewing a person in care: introduction and explanation of the LPA’s role

An interview begins with the LPA

- introducing him or herself
- explaining their role, and
- ensuring that the person in care has everything needed for comfort during the interview.

The table below shows a typical interview introduction.

Step	Example LPA Questions
1	LPA: “Hello, <i>[child’s name]</i> , I am glad to meet you today.”
2	<i>LPA waits for response.</i>
3	LPA: “My name is <i>[name]</i> and my job is to talk to people about things that have happened to them. Can I do anything to make you more comfortable?”
4	<i>LPA waits for response.</i>

Continued on next page

3-2462: Introduction and Building Rapport, Continued

Interviewing a person in care: providing support and reassurance

When interviewing a person in care, the LPA reassures the person in care before beginning the interview. An example of reassurance is shown below:

LPA: “No, no, you’re not in any trouble. I’m just here to do some licensing business.”

Note: Being empathetic and using active listening skills can help the person in care feel like they

- gained something from the interview
- are comfortable talking to the LPA, and
- trust the LPA.

Interviewing a person in care: additional support

Some persons in care may need additional rapport building beyond the meet-and-greet when the LPA begins an interview. The table below provides examples of additional support the LPA can give to the person in care being interviewed.

Rapport-Building Strategy	Example LPA Interview
Invite the person in care to talk about a neutral topic chosen before the interview	LPA: “I see that you like <i>[chosen topic]</i> . Tell me about <i>[chosen topic]</i> .”
Describe a unique belonging or item (clothing, curio, etc.)	LPA: “I see you are wearing a <i>[unique item]</i> . Tell me about it.”
General discussion of a neutral topic	<ul style="list-style-type: none"> • <i>LPA asks about the person in care’s favorite movie, activities, hobbies, etc.</i> • LPA: “What do you like to do?” • LPA: “Do you like it here?”

Continued on next page

3-2462: Introduction and Building Rapport, Continued

Interviewing a person in care: determining developmental and cognitive level

The LPA can use the opportunity while building rapport to consider the developmental and cognitive level of the person in care and determine what supports are needed. Some example questions that can help assess developmental and cognitive level are shown below.

Examples:

- **LPA:** “Do you have children?”
- **LPA:** “How long have you lived at this facility?”
- **LPA:** “What TV shows do you watch?”
- **LPA:** “What *[month, day, year]* is it?”
- **LPA:** “Who is our President?”

Note: Asking the person in care if they understand the question will assist the LPA to ask appropriate questions.

3-2463: Explaining Ground Rules

What are ground rules?

Ground rules are basic principles. Establishing ground rules provides context, sets expectations and empowers the individual to

- say if they don't understand or don't know a question, and
- correct the Licensing Program Analyst (LPA) if needed.

Interviewing a person in care: when a question is not understood

Some adults are hesitant to say when they don't understand an instruction or a question. The table below shows the best way for the LPA to explain to a person how to respond when a question is not understood.

Step	Example LPA Interview
1	LPA: “[<i>person’s name</i>], I’m interested in you and I’ll be asking you lots of questions today. If I ask a question that you don’t understand, just say, ‘[<i>LPA’s name</i>], I don’t understand.’ Okay, [<i>person’s name</i>]?”
2	<i>LPA pauses.</i>
3	LPA: “If I don’t understand what you say, I’ll ask you to explain.”
4	<i>LPA pauses.</i>

Interviewing a person in care: when an answer is not known

The table below shows the best way for the LPA to instruct a dependent adult or elder person in care how to respond when they don't know the answer to a question.

Step	Example LPA Interview
1	LPA: “If I ask a question, and you don’t know the answer, just tell me, ‘I don’t know.’”
2	<i>LPA pauses.</i>
3	LPA: “So, [<i>person’s name</i>], if I ask you [<i>for example: ‘What did I have for breakfast today?’</i>], what would you say?”
4	<i>LPA waits for an answer.</i>

Continued on next page

3-2463: Explaining Ground Rules, Continued

Interviewing a person in care: when interviewer is incorrect

Some adults are hesitant to correct the LPA if the LPA makes a mistake. The LPA should explain as follows:

Step	Example LPA Interview
1	LPA: “If I make a mistake and say something [wrong, that is incorrect], you should tell me. Okay <i>[person’s name]</i> ?”
2	<i>LPA waits for an answer.</i>

Note: The LPA must always be aware of the individual’s responses and reactions. If the interview becomes nonproductive or upsetting for the person in care, it is best to end the interview.

Interviewing a person in care: summary of purpose

When interviewing a dependent adult or elderly person in care, the final step of explaining and practicing ground rules is to provide the person with a short explanation of purpose. The LPA may amend the following example, as appropriate:

LPA: “Part of my job is to talk to people about things that have happened to them. I meet with a lot of people so they can tell me the truth about things that have happened to them. *[person’s name]*, it is very important that you tell me the truth today about things that have happened to you.”

3-2464: Transition to Substantive Issues

What is the substantive phase?

After explaining the ground rules of an interview with an dependent adult or elderly person in care, the Licensing Program Analyst (LPA) next initiates discussion of substantive issues. This is referred to as the **substantive phase** of the interview.

Note: If the person in care makes an allegation at any time during this phase, the LPA skips to exploring substantive issues. For more information, see 3-2465: Exploring Substantive Issues.

Interviewing a person in care: first prompt

To transition to talking about the allegation(s) when interviewing a person in care, the LPA moves to the first prompt, as shown in the table below.

Step	Example LPA Interview
1	LPA: “Now that we know each other a little better, I want to talk to you about why <i>[you are, I am]</i> here today.”
2	<i>LPA waits for a response.</i>

Note: The LPA must remember to wait for a response after asking each question.

Interviewing a person in care: redirecting the person in care

If a person in care stops talking or goes off on a different subject during an interview, the LPA can repeat the last thing the person said to redirect back to where they were.

Continued on next page

3-2464: Transition to Substantive Issues, Continued

Interviewing a person in care: is the person in care a direct witness?

When interviewing a person in care regarding an allegation, it is important to determine if the person is a direct witness to the event. The tables below provide guidance when determining if a person is a direct witness to a particular event and the correct response by the LPA.

If ...	Then ...
the person actually saw or heard the event	the person is a direct witness .
the person did not actually see or hear the event	the person is not a direct witness.

If ...	Then ...
the person is a direct witness	the LPA continues with the sequence of interview prompts.
the person is not a direct witness	the LPA asks how the person obtained the information.

Note: A victim or witness may not want to disclose information because they do not want to get involved or make things public. The LPA must let the victim or witness know they will help to prevent this from occurring again.

Interviewing a person in care: when the person in care is a victim or witness

Important! When interviewing a person in care who is a victim or a direct witness, the LPA should try to find out what the person was told about

- the LPA, and
- the LPA’s purpose for speaking to the person in care.

The LPA must also determine whether the person in care has any concerns which may prevent or hinder disclosure.

Continued on next page

3-2464: Transition to Substantive Issues, Continued

Interviewing a person in care: prompts 2-9

After transitioning an interview with a person in care to substantive issues using the **first prompt**, the LPA continues with prompts 2 through 9 of the interview.

During this phase, the LPA may consult the table below to manage the interview.

If ...	Then ...
the person makes no allegation when responding to a prompt	the LPA continues to the next prompt.
the person does make an allegation when responding to a prompt	the LPA skips to exploring substantive issues. For more information, see 3-2465: Exploring Substantive Issues.

The table below outlines prompts 2 through 9.

Question	Prompt
2	LPA: "I understand that something may have happened to you. Tell me everything that happened from the beginning to the end."
3	LPA: "As I told you, my job is to talk to people about things that might have happened to them. It is very important that you tell me why you think <i>[you are, I came]</i> here today."
4	LPA: "I <i>[saw, heard]</i> that you <i>[have/had documented injuries, bruises]</i> on your <i>[body part]</i> . Tell me everything about <i>[those, that]</i> ."
5	" <i>[person's name]</i> , has anything happened to you at <i>[location, time of alleged incident]</i> ?"
6	" <i>[person's name]</i> , has anybody been bothering you?"
7	" <i>[person's name]</i> , did someone do something to you that you don't think was right?"
8	" <i>[person's name]</i> , did someone <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> ?"
9	" <i>[person's name]</i> , I understand <i>[you, someone]</i> <i>[reported, saw]</i> <i>[briefly summarize allegations or suspicions without specifying names of alleged perpetrator or providing too many details]</i> . I want to find out if something may have happened to you."

Continued on next page

3-2464: Transition to Substantive Issues, Continued

Interviewing a person in care: the person had previous contact with authorities

If, when interviewing a person in care, the LPA becomes aware that the person has had previous contact with authorities, the LPA must seek the person’s response pertaining to those contacts. An example of how the LPA can question the person in care in this matter is shown in the table below.

Step	Example LPA Interview
1	LPA: “I’ve heard that you talked to a <i>[doctor, teacher, social worker, other professional]</i> at <i>[time, location]</i> . Please tell me what you talked about.”
2	<i>LPA waits for response.</i>

Interviewing a person in care: supportive statements (part 1)

If a person in care has explicitly expressed difficulty or reluctance to disclose during an interview, but has not denied alleged abuse, the LPA may use any of the supportive statements below to reassure the person in care.

- **LPA:** “*[person’s name]*, my job is to listen to people about things that happened to them.”
- **LPA:** “*[person’s name]*, I really want to know when something happens to people. That’s what I am here for.”
- **LPA:** “*[person’s name]*, here people can talk about good things and bad things that have happened to them.”
- **LPA:** “*[person’s name]*, my job is to try to help people.”
- **LPA:** “You told me a lot about yourself. I feel I know you better and you can tell me more about *[things, both good things and bad things]* that have happened to you.”
- **LPA:** “You told me a lot about yourself, thank you for letting me know. Please go on and tell me about other things that have happened to you.”
- **LPA:** “*[person’s name]*, if there is anything you want to tell me, *[I want to know/listen, it’s important for me to know/listen]*.”

Continued on next page

3-2464: Transition to Substantive Issues, Continued

Interviewing a person in care: supportive statements (part 2)

If a person in care has not made an allegation, explicitly expressed difficulty or reluctance to disclose, and not denied alleged abuse, but independent evidence exists arousing suspicion that an allegation may have merit, the LPA may use any of the supportive statements below or in “Interviewing a person in care: supportive statements (part 1)” to reassure the person in care.

- **LPA:** “[*person’s name*], [*I am, people are*] worried about you and I want to know if something may have happened to you.”
- **LPA:** “[*person’s name*], if something has happened to you and you want it to stop, you can tell me about it.”
- **LPA:** “[*person’s name*], if it’s hard for you to tell, what makes it so hard?”

The LPA can follow up with the following questions, if needed:

- **LPA:** “[*person’s name*], is there anything you are concerned about?”
- **LPA:** “[*person’s name*], what would happen if you told me?”
- **LPA:** “[*person’s name*], has someone told you not to tell?”
- **LPA:** “It’s your choice if you want to tell me, and it’s my job to let you choose.”

Continued on next page

3-2464: Transition to Substantive Issues, Continued

Interviewing a person in care: supportive statements (part 3)

If a person in care is overtly refusing to engage during an interview, and has explicitly expressed difficulty or reluctance to disclose, but has not denied alleged abuse, the LPA may use any of the supportive statements below – in addition to those in “Interviewing a person in care: supportive statements (part 1)” and “Interviewing a person in care: supportive statements (part 2)” – to reassure the person in care.

- **LPA:** “[*person’s name*], I understand you are [*difficulty the person mentioned – for example: embarrassed*].” Let’s start talking and I’ll try to help you with it.”
- **LPA:** “I understand you are [*difficulty the person mentioned*], tell me more about that.”
- **LPA:** “It’s your choice whether to tell and I will accept your choice.”

If ...	Then ...
the person expressed lack of confidence	LPA: “I’m sure you can talk about it well.”
the person expressed worry about something specific and the reassurance the LPA can give is true	LPA: “Do not worry, I will [<i>not tell the other persons in care, not tell the staff</i>].”

3-2465: Exploring Substantive Issues

Substantive issues phase interview skills

Throughout the entire substantive issues phase of an interview with an person in care, it is important for the Licensing Program Analyst (LPA) to

- preserve and enhance the rapport established with the person in care
- continue providing supportive statements, and
- address expressed inhibitions, distress, and conflicts.

Interviewing a person in care: free recall invitations

When interviewing a dependent adult or elderly person in care, **free recall invitations** are various scenarios and options that a LPA can use to ask a person about the alleged incident(s). The table below provides some examples of free recall invitations.

If ...	Then ...
the person mentions a specific incident	the LPA can say: “[<i>person’s name</i>], you told me that [<i>briefly summarize the allegation the person has made</i>]. Tell me everything from the beginning to the end.”
the person mentions several incidents	the LPA can say: “[<i>person’s name</i>], you told me that [<i>briefly summarize the allegation the person has made</i>]. Tell me everything about the [<i>last time, first time, place, time, specific incident</i>] from the beginning to the end.”
the person gives a generic description, and the LPA cannot determine the number of incidents	the LPA can say: “[<i>person’s name</i>], you told me that [<i>briefly summarize the allegation the person has made</i>]. Did that happen one time or more than one time?”

Note: The LPA must always remember to wait for a response after prompting the person in care.

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Interviewing a person in care: generic response to a free recall invitation

If the child provides a generic response after responding to all the **free recall invitations**, suggested in “Interviewing a person in care: free recall invitations”, the LPA can repeat the first question, as shown in the table below.

Step	Example LPA Interview
1	LPA: “[<i>person’s name</i>], you told me that [<i>briefly summarize the allegation the person has made</i>]. Tell me everything from beginning to end.”
2	<i>LPA waits for response.</i>

Note: With some persons in care, it may be necessary to use drawings to identify body parts.

Interviewing a person in care: follow-up invitations

While interviewing a person in care, the LPA can repeat the person’s description of the action or occurrence that started the event. The LPA can then use the follow-up syntax in the table below to continue to prompt the person.

Note: The LPA can repeat the question above as often as needed until the LPA has a complete description of the alleged event.

Step	Example LPA Interview
1	LPA: “And then what happened?”
2	<i>LPA waits for response.</i>

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Interviewing a person in care: time segmenting invitations

Once the LPA has introduced substantive issues into an interview with a person in care, the LPA next focuses the interview by asking the person about a specific event in time. These questions are known as **time segmenting invitations**.

Example language for the LPA is shown in the table below.

Step	Example LPA Interview
1	LPA: “You have told me so many things and helped me understand what happened. Now, <i>[person’s name]</i> , I want to ask you more questions about <i>[incident]</i> .”
2	<i>LPA waits for response.</i>
3	LPA: “ <i>[person’s name]</i> , think back to that <i>[time, day, night]</i> and please tell me everything that happened from the moment <i>[an activity the person mentioned]</i> to the moment <i>[a subsequent activity the person mentioned]</i> .”
4	<i>LPA waits for response.</i>

Note: You may use this question as often as needed to ensure that all parts of the incident are elaborated.

Interviewing a person in care: cued invitations

In addition to other interview prompts that can be used when a LPA is interviewing a person in care, the LPA can also use **cued invitations**. These can have two formats, as shown below:

- **LPA:** “Tell me more about *[activity, object, feeling, thought]*.”
- **LPA:** “*[child’s name]*, you mentioned *[activity, object, feeling, thought]*. Tell me more about that.” Use this question as often as needed.

Note: The LPA must exhaust free-recall invitations before proceeding to other question types.

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Interviewing a person in care: directive questions

After exhaustive use of **open-ended questions** (free recall invitations and cued invitations) when interviewing a person in care, the LPA can use **directive questions** if some central details of the allegation are still missing or unclear.

An example of directive questioning is shown in the table below. When directive questions are used, it is important to pair them with open ended questions whenever possible (the addition of an open-ended question is shown in Step 3 of the example).

Step	Example LPA Interview
1	LPA: “[<i>person’s name</i>], you said that [<i>activity, object, feeling, thought</i>]. [<i>How did ..., When did ..., Where did ..., Who ..., What ..., Which ..., How many ..., What did you mean?</i>]”
2	<i>LPA waits for response.</i>
3	LPA: “Tell me more about that.”
4	<i>LPA waits for response.</i>

Interviewing a person in care: multiple incidents

If, during an interview with a person in care, the person mentions a single incident when replying to questions, the LPA must determine if the mentioned incident did happen only once, or if it happened on multiple occasions.

The table below shows an example of how the LPA can make this determination.

Step	Action
1	LPA: “[<i>person’s name</i>], what you just told me, did that happen one time or more than one time?”
2	<i>LPA waits for response.</i>

Note: If the person has said that such incidents happened more than one time, go back to “Interviewing a person in care: free recall invitations” and start the substantive issues phase again, exploring the additional incidents. It is often best to explore the last, first, or best-remembered incident.

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Interviewing a person in care: break

After discussing the details of the allegation(s) with a person in care, the LPA lets the person know that it is time for a brief break in the interview, using the example statement below:

LPA: “[*person’s name*], now I want to make sure I have understood everything you said and see if there’s anything else I need to ask. I will take a couple minutes to [*think about what you told me, go over my notes*].”

During the break time, it is best for the LPA to

- review the information received so far
- check for any missing information, and
- plan the rest of the interview.

Note: It is best for the LPA to formulate option-posing questions in writing during the break, then consider replacing them with open-ended questions or directive questions if it seems advantageous to do so as the interview continues. For more information, see “Interviewing a person in care: option-posing questions”.

Interviewing a person in care: option-posing questions

Option-posing questions elicit information that has not already been mentioned by the person in care. The LPA should only ask option-posing questions if they have tried other approaches, and realize that some forensically important information is still missing.

Important! It is very important to pair option-posing questions with open invitations whenever possible.

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Option-posing questions vs. open invitations

The table below compares option-posing questions and open invitations.

Note: In cases where multiple incidents have taken place, the interviewer directs the person in care to describe the most relevant incidents in their own words.

Question Attributes	Option-Posing Questions	Open Invitations
Response is specific	Yes	No
Response is broad	No	Yes
Addresses concepts, subjects, or details previously mentioned by the person in care	Yes	Yes
Answered with one or two words	Yes	No
Answered with longer sentences	No	Yes
Elicits responses from the person in care not suggested by the interviewer	Yes	Yes
Response is limited	Yes	No
Response is not limited	No	Yes
Must be formulated so that question clarifies information	Yes	Yes

Example: option-posing questions vs. open invitations

The table below provides examples of both option-posing questions and open invitations.

Question Type	Examples
Option-posing questions	<ul style="list-style-type: none"> • “Had you met him/her before?” • “Did it hurt?”
Open invitations	<ul style="list-style-type: none"> • “Tell me everything that happened.” • “Tell me more about that.”

Continued on next page

3-2465: Exploring Substantive Issues, Continued

Obtaining missing details

When interviewing a person in care, before moving to the next incident, the LPA must make sure all the missing details about each specific incident have been obtained. An example of a detail question is shown in the table below.

Note: Whenever possible, the detail question is followed up with an open invitation, as shown in Step 3.

Step	Example LPA Interview
1	LPA: “[<i>person’s name</i>], when you told me about [<i>specific incident embedded in time and place</i>] you mentioned [<i>activity, object, feeling thought</i>]. [<i>Question about a detail for the person to confirm or deny</i>]?”
2	<i>LPA waits for response.</i>
3	LPA: “Tell me everything about that [<i>activity, object, feeling, thought</i>].”
4	<i>LPA waits for response.</i>

Example: “Amanda, when you told me about being in the hallway with John, were there other people with you?”

Interviewing a person in care: signs of programming or coaching

Important! When interviewing a person in care, the interviewer must be aware of the possibility of **programming**. This is when the person in care has been coached on what information to disclose or withhold.

Individuals who have been coached

- do not know specific details
- tell the story systematically because that is how they were taught, and
- have difficulty picking up in the middle of the story.

3-2466: Disclosure Information

Interviewing a person in care: disclosure

Prior to ending an interview with a person in care, the Licensing Program Analyst (LPA) must determine whether the person has disclosed the described incident(s) to anyone else. This disclosure information is preferably obtained by asking the person in care open-ended questions regarding who else they have spoken to about the incident(s).

Interviewing a person in care: summarizing the interview

Before obtaining disclosure information, the LPA must summarize the interview for the person in care as shown in the table below.

Step	Action
1	LPA: “You’ve told me why you came to talk to me today. You’ve given me <i>[a lot of]</i> information and that really helps me to understand what happened.”
2	<i>LPA waits for response.</i>

Interviewing a person in care: obtaining disclosure information

The LPA, during an interview with a person in care, proceeds to asking the person for disclosure information based on whether the person has already mentioned an incidence of disclosure, as shown in the table below.

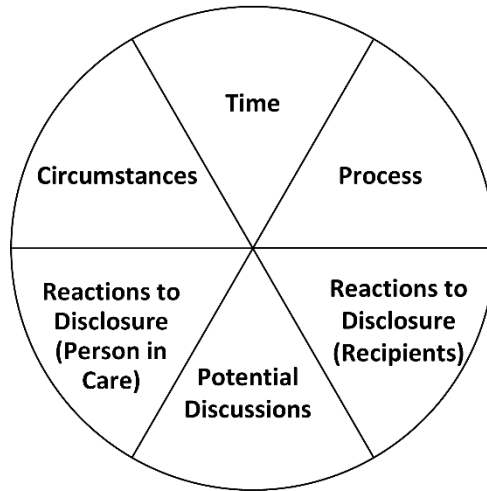
If ...	Then ...
the person has mentioned telling someone about the incident(s)	the LPA says: “Now, I want to understand how other people found out about <i>[the last incident]</i> .”
the person has not mentioned telling someone about the incident(s)	the LPA asks: “Does anybody else know what happened?”

Continued on next page

3-2466: Disclosure Information, Continued

Interviewing a person in care: exploring the disclosure process

Once the issue of disclosure has been introduced in an interview with a person in care, the interviewer explores the disclosure process by addressing the specifics of each disclosure mentioned by the person in care, as illustrated in the graphic below.



Note: When obtaining these specifics of disclosure information, it is best to use open-ended questions whenever possible.

3-2467: Ending the Interview

Interviewing a person in care: wrap-up and contact information

When ending an interview with a dependent adult or elderly person in care, it is important for the Licensing Program Analyst (LPA) to close using the four steps shown in the table below.

Step	Example LPA Interview
Provide opportunity for questions	<ul style="list-style-type: none"> • LPA: “Do you have any questions for me?” • LPA: “Is there anything you would like to add?”
Give contact information	LPA: “Here is my <i>[business card, contact information]</i> . You can contact me if you have any more questions or need anything else.”
Ask for permission to contact	LPA: “Can I contact you <i>[if needed, if I have any questions]?</i> ”
Express appreciation	LPA: “Thank you for your time.”

Interviewing a person in care: how to end the interview

To end an interview with a person in care, the LPA initiates a neutral conversation, as shown in the table below.

Step	Example LPA Interview
1	LPA: “ <i>[person’s name]</i> , what are you going to do after we finish talking?”
2	<i>LPA waits for response.</i>
3	<i>LPA talks to the person in care for a couple of minutes about a neutral topic.</i>

Documenting the interview

It is essential for the LPA to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

3-2468: Challenges and Expected Behaviors

Regressive behaviors in cases of abuse

Regressive behaviors are a psychological defense mechanism that an individual may use temporarily to cope with extreme stress. When a regressive behavior is observed in an interview subject, the Licensing Program Analyst must try to determine the event that triggered the behavior.

Example: Regressive behaviors include but are not limited to

- crying
- frustration
- inability to care for oneself
- incontinence
- lack of sleep, and
- withdrawing from activities.

Note: The behaviors listed above are not exhaustive and may be exhibited by adults with developmental delays and the elderly.

Challenges: person in care behavior

The Licensing Program Analyst (LPA) conducting a complaint inspection can expect persons in care to be standing, listening, and observing. Persons in care who feel anxious about the complaint inspection may also

- laugh
- move from one room to another
- sort through possessions
- “stim”
- sub-vocalize, or
- whisper or talk with one another.

Challenges: licensee behavior

During a complaint inspection, the LPA may observe a licensee to

- appear to be
 - agitated
 - upset, or
 - worried
- ask questions
- make requests of staff or the Licensing Program Analyst, or
- pace.

Continued on next page

3-2468: Challenges and Expected Behaviors, Continued

Challenges: facility staff The table below shows common challenges and suggested solutions for the LPA when communicating with staff.

If ...	Then ...
a staff member speaks English as a second language	the LPA must explain the purpose of the investigation simply and slowly.
a staff member <ul style="list-style-type: none"> • appears confused, fearful, or upset, and/or • is upsetting persons in care 	the LPA must <ul style="list-style-type: none"> • remain calm • reassure persons in care and staff (if appropriate) that they are not in trouble • explain the purpose of the inspection without specifying the allegations, and • contact the owner/operator.
a staff member is out sick or on vacation, and is a key witness in the investigation	the LPA must obtain the staff member’s personal contact information.

Note: The LPA may call staff and conduct an interview at a neutral location if the staff member is off duty or when it is best for the licensee to be unaware of the interview (such as in cases of abuse).

Challenges: licensee/administrator The LPA may encounter challenges when communicating with a licensee or administrator. The table below describes possible behavior, and how the LPA must respond.

If ...	Then ...
the licensee or administrator <ul style="list-style-type: none"> • appears angry, upset, or defensive • instructs staff to leave, stay, or show up on the scene • upsets staff and/or persons in care 	the LPA must <ul style="list-style-type: none"> • remain calm, and • explain that <ul style="list-style-type: none"> ○ a complaint is an allegation, not an accusation of wrongdoing, and ○ the licensee will have an opportunity to dispute the allegation.

3-2480: Interviewing Suspects, Licensees, and Medical Personnel

Overview

Contents

The information in this section is applicable to all programs.

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3-2481: Interviewing the Suspect

When arriving at the interview site

The Licensing Program Analyst (LPA) must be observant about the setting of the interview, such as

- people nearby
- items that could be used as a weapon, and
- exit routes.

Note: If necessary, ensure that there is a clear path to an exit.

Interviewing a suspect: interview process

The graphic below briefly outlines the process of conducting an interview with a suspect.



Continued on next page

3-2481: Interviewing the Suspect, Continued

Interviewing a suspect: interview procedure

The table below briefly outlines the interview procedure for the LPA when interviewing a suspect.

Step	Action
1	LPA describes their role: <ul style="list-style-type: none"> • Introduce yourself. • Provide context. • Ensure suspect’s understanding of purpose/context of the interview.
2	LPA prepares the suspect: <ul style="list-style-type: none"> • “I’ll be asking lots of questions today.” • Establish a relationship.
3	LPA sets the context and establishes expectations: <ul style="list-style-type: none"> • “If you don’t <i>[know, understand]</i>, say so,” and • “If I get anything wrong, say so.”
4	LPA looks for inconsistencies and changes in behavior/ body language, notes if the suspect provides detailed or vague responses: <ul style="list-style-type: none"> • Ask if suspect knows why they are here. • Encourage suspect to describe the incident (in suspect’s own words). • Determine whether suspect <ul style="list-style-type: none"> ○ has caregiving experience, and ○ had care, custody, and control of the person in care prior, during, and immediately after the event.
5	LPA identifies and confirms understanding of what the suspect disclosed, and identifies other witnesses, if any: <ul style="list-style-type: none"> • Summarize interview. • Determine if suspect has discussed with others.
6	LPA ends the interview and provides contact information: <ul style="list-style-type: none"> • Is there anything they’d like to add? • Give the suspect the LPA’s contact information. • Is it OK to follow up after the interview? • End by talking about a neutral topic and thank them for their time.

Continued on next page

3-2481: Interviewing the Suspect, Continued

Interviewing a suspect: behavior changes

While interviewing a suspect, the LPA must watch for behavior changes when asking specific questions. If the LPA observes that the suspect

- becomes defensive
- hesitates when answering
- refrains from making eye contact
- provides nonverbal responses (for example, shakes head no)
- presents with a closed posture (crossing arms or legs), or
- fidgets (for example, taps a foot or shakes a leg).

The LPA must document these behaviors on the Detail Supportive Information (LIC 812) form.

Interviewing a suspect: changes in body language

While interviewing a suspect, the LPA must be aware of the suspect's body language and changes in communication during the interview.

If the person demonstrates a negative reaction to a situation or question, it is best for the LPA to change the course of questioning and come back to that previous line of questioning after the person is more relaxed.

Note: The LPA must be able to observe the suspect's eyes, hands, and feet throughout the interview.

Continued on next page

3-2481: Interviewing the Suspect, Continued

Common defenses offered by suspects

The LPA must be aware of the most common defenses offered by alleged perpetrators or suspects of abuse. Some examples of common defenses are provided below.

Subject	Common Defenses
The victim	<ul style="list-style-type: none"> • died of an accident • fell • did something to him or herself, or • was overly disciplined.
The victim’s injuries	<ul style="list-style-type: none"> • self-inflicted, or • caused by someone else.
The suspect	<ul style="list-style-type: none"> • was playing roughly with the victim • was not there • does not know what happened • would not do that, or • does not remember.

Important! Depending on the facts, it may be unreasonable for a suspect to deny knowledge of the incident. For example, if the victim was unconscious or in a coma, facility staff must have seen or heard something that could account for a condition if it was trauma related and not a medical problem. It would be unreasonable for staff to assert that they had no idea how an unconscious person injured themselves.

If a person has a history of lying

The LPA is responsible for gathering supporting evidence that prove the existence of consistencies or inconsistencies in the story.

Note: A person’s history of lying does not preclude them from being a victim or telling the truth at the present time.

Second interviews

The LPA may schedule and/or conduct a second interview if an interviewee feels uncomfortable, does not trust the LPA, and/or needs additional time to talk.

Documenting the interview

It is essential for the LPA to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

3-2482: Interviewing the Licensee/Administrator and Staff

Interviewing licensees and staff: interview process

The graphic below briefly outlines the process of conducting an interview with a licensee, administrator, or staff.



Interviewing licensees and staff: licensee was not present for incident

When investigating a complaint, if the licensee was not present at the time of the alleged event, the Licensing Program Analyst (LPA) must ask **how, when, and by whom** the licensee was notified about the condition of the child, teen, or person in care.

Documenting the interview

It is essential for the LPA to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

Determining location of parents during an incident

For incidents at Child Care facilities, the LPA must determine where the parents of children were when the incident occurred.

Continued on next page

3-2482: Interviewing the Licensee/Administrator and Staff, Continued

Interviewing licensees and staff: interview procedure

The table below briefly outlines the procedure for conducting an interview with a licensee, administrator, or staff.

Step	Action
1	LPA prepares the interviewee: <ul style="list-style-type: none"> • “I’ll be asking lots of questions today.” • LPA describes why they are at the facility. • Determine the licensee’s response to the allegation(s).
2	LPA sets the context and establishes expectations: <ul style="list-style-type: none"> • “If you don’t <i>[know, understand]</i>, say so,” and • “If I get anything wrong, say so.”
3	LPA seeks to establish facts of the case: <ul style="list-style-type: none"> • Encourage the interviewee to describe the incident (in their own words). • For the child, teen, or person in care, identify <ul style="list-style-type: none"> ○ parents or relatives (if applicable), and ○ any medical conditions. • Determine <ul style="list-style-type: none"> ○ culpability of the interviewee (even when interviewee was not directly responsible for incident) ○ who else was present for the incident, and ○ who else is responsible for care and supervision of the child, teen, or person in care?
4	LPA identifies and confirms understanding of what the suspect disclosed, and identifies other witnesses, if any: <ul style="list-style-type: none"> • Summarize interview. • Determine if others know about the incident.
5	LPA ends the interview and provides contact information: <ul style="list-style-type: none"> • Is there anything they’d like to add? • Give the interviewee the LPA’s contact information. • Is it OK to follow up after the interview? • End by talking about a neutral topic and thank them for their time.

3-2483: Interviewing Medical Personnel

Interviewing medical staff: LPA self-identification

As with any other type of interview, the Licensing Program Analyst (LPA) must identify themselves to any medical staff interviewed before asking questions related to the victim, incident, or any medical care received.

Interviewing first responders

The table below provides specific questions the LPA may ask when speaking with first responders to determine what happened in an incident.

Note: Whenever possible, the LPA must ask medical staff for

- exact quotes
- names
- badge numbers, and
- duty shifts.

Interview Objectives	LPA Questions
To obtain a description of the emergency call and/or initial contact with medical personnel.	<ul style="list-style-type: none"> • LPA: “Is there an audio copy of the 9-1-1 call?” • LPA: “What was the call about?” • LPA: “What did the <i>[medical staff, paramedics]</i> observe when they came to the scene?”
To obtain an explanation for the victim’s condition.	<ul style="list-style-type: none"> • LPA: “Who brought the victim in to the <i>[hospital, medical center]</i>?” • LPA: “What explanation was given to <i>[medical staff, paramedics]</i> when <i>[the victim]</i> was brought in for care?”
To determine which staff was involved.	<ul style="list-style-type: none"> • LPA: “Which emergency personnel were involved in responding to the call?” • LPA: “Which doctors/nurses did <i>[the victim]</i> see when they arrived at the <i>[hospital, medical center]</i>?”
To obtain a written statement from the paramedics on what they did, saw, and heard.	<p>LPA: “Would you mind taking a few minutes to write down what you saw, what you did, and what you heard when <i>[you arrived at the scene, the victim arrived]</i>?”</p>

Continued on next page

3-2483: Interviewing Medical Personnel, Continued

Interviewing medical staff: obtaining health information

When interviewing medical personnel in connection with a complaint investigation, the LPA may ask, if applicable to the investigation, specific questions about the victim’s diagnosis, prognosis, and condition.

Examples:

- **LPA:** “Is there a differential diagnosis for *[the victim’s]* condition?”
- **LPA:** “What is *[the victim’s]* prognosis?”
- **LPA:** “Were old injuries discovered?”
- **LPA:** “What is *[the victim’s]* general medical condition?”
- **LPA:** “Can you describe the clinical course that *[the victim]* would have experienced with this type of injury?”
 - **LPA:** “Would *[the victim]* have become unconscious immediately?”
 - **LPA:** “Would *[the victim]* still eat and be active after suffering such an injury?”

Interviewing medical staff: medical care rendered to a victim

When interviewing medical personnel in connection with a complaint investigation, the LPA must determine what medical care was rendered to the victim.

Examples:

- **LPA:** “What medical care will be provided?” (For example, surgery, prescriptions, etc.)
- **LPA:** “What medical care was provided upon *[the victim’s]* arrival?”

Interviewing medical staff: medical opinion

When interviewing medical personnel in connection with a complaint investigation, the LPA must determine the doctor’s opinion.

- **LPA:** “Do you think the injuries *[the victim]* sustained are accidental or inflicted?”
 - **LPA:** “Why do you think that?”
- **LPA:** “Can you provide a timeframe for when the injury occurred?”

Continued on next page

3-2483: Interviewing Medical Personnel, Continued

Interviewing medical staff: documentation from a doctor

When interviewing medical personnel in connection with a complaint investigation, the LPA must determine whether the doctor will provide written documentation regarding the incident.

Example:

LPA: “Would you be willing to provide a written statement detailing your medical opinion as to whether *[the victim’s]* injuries were accidental or inflicted?”

Note: When documentation is provided, the LPA must check if the doctor’s documentation is consistent with the statements of the licensee and/or other witnesses.

Interviewing medical staff: in cases of death

In cases where a victim has died, the LPA must ask the doctor if there was a possibility of successful medical intervention if there had not been a delay in seeking medical treatment.

Documenting the interview

It is essential for the LPA to properly document the details of each interview. For information on documenting an interview, see 3-2506: Detail Supportive Information (LIC 812).

3-2500: Documenting the Complaint Investigation

Overview

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3-2501: Documentation Best Practices

Attributes of good documentation

Good documentation in an investigation is

- accurate
- thorough
- evidence-based, and
- clearly supports the findings of the investigation.

Finding a location

When selecting a place in which to write the report, the Licensing Program Analyst (LPA) must request a location which

- prevents disruptions to the facility schedule, and
- minimizes interruptions of the analyst’s work.

Note: An LPA may leave the facility to write the report and return to present the findings (and determination, if applicable) and obtain a Plan of Correction.

Common forms used to support the investigation

The table below identifies common forms which are used to support the complaint investigation. The forms identified are not exhaustive.

Form(s)	Title
LIC 185	Contact Sheet
LIC 802	Complaint Report
LIC 809	Facility Evaluation Report
LIC 811	Confidential Names
LIC 812	Detail Supportive Information
LIC 813	Facility Photography Report
LIC 855	Declaration
LIC 857, 858, 859	Records Review
LIC 9099	Complaint Investigation Report

Continued on next page

3-2501: Documentation Best Practices, Continued

Documenting confidential identifiers

Use the Confidential Names (LIC 811) form to document

- any identifying information about a person in care, and
- the names of alleged
 - victims, and
 - suspects.

Legal proceedings and responsibility

All documentation from a complaint investigation can be used in a legal proceeding. LPA must remember that the Department has a responsibility to

- make decisions regarding initial and ongoing licensure
- prove noncompliance when necessary, and
- support licensing decisions based on documentation obtained during investigations, including but not limited to
 - interviews
 - all facility record reviews, and
 - any documentation used to make a determination.

Note: For legal purposes, type hand-written notes within three days of the inspection.

Documentation and legal proceedings

In a legal proceeding (such as a hearing), the documentation in a facility’s record, maintained in the Regional Office (RO), is the key element supporting licensure decisions made by the Department.

Note: The LPA is often the primary witness for the Department and is subject to cross-examination.

Providing a declaration or individual statement

When interacting with a witness to an incident, the LPA may ask the individual to provide an explanation of what happened in their own words through a declaration.

To submit a declaration to the Department, the individual may send the Declaration (LIC 855) to their local RO. For additional information, see Reference Material for Documentation, 3-3305: Declaration (LIC 855).

Continued on next page

3-2501: Documentation Best Practices, Continued

Use of neutral language

When completing the allegations section of a Complaint Report (LIC 802) or (other form documenting a complaint), the LPA must ensure they use wording and phrases which are

- neutral
- non-judgmental, and
- lacking assumptions, conclusions, diagnoses, or bias.

Some examples of unacceptable wording, and some acceptable substitutes, are shown on the table below.

Unacceptable Wording	Neutral Wording
The facility or individual failed to ...	The facility or individual did not ...
Child was injured ... <ul style="list-style-type: none"> • because of lack of supervision. • due to negligence of the care provider. • resulting in acute trauma. 	Child was injured while in care .
Client’s belongings were stolen by Staff X.	Client’s belongings are missing .

Documenting allegations vs documenting detail

While allegations must always be carefully worded to avoid leading or judgmental language, other areas of the LIC 802, Detail Supportive Information (LIC 812), or other narrative documentation must contain as much detail for the case investigators as possible. For this reason:

- **Narrative text** written by the intake analyst to document the case will normally be a free-flowing summation of the verbal narrative provided by the complainant. Rules of neutral language **do not** apply to such intake.
- **Allegation text** written to formally set out the components of the complaint is subject to rules of neutral language and must be carefully considered.

Note: Typically, allegation text is added later, after narrative text has been recorded and the analyst has time to select the best wording for each allegation.

Continued on next page

3-2501: Documentation Best Practices, Continued

Rechecking documentation

The LPA conducting an investigation must review documentation to ensure accuracy. Documentation reviewed during off-site planning must always match documentation at the facility.

Note: The LPA must always re-review **waivers and exceptions** at the facility, even when these documents have been reviewed during off-site planning.

Licensing file information

Documents that belong in the Licensing File, maintained in the RO, include, but are not limited to

Formal documentation:

- Complaint Investigation Reports (LIC 9099)
- Confidential Names Lists (LIC 811)
- Detail Supportive Information (LIC 812)
- Facility Evaluation Report (LIC 809) – licensing reports
- Complaint Report (LIC 802) – complaints
- Incident Reports

Other documentation:

- Rosters of persons in care
 - Letters
 - Licenses
 - Staff lists
 - Other documents (photos, police reports, medical records, etc.).
-

3-2502: Complaint Report (LIC 802)

When is a Complaint Report used?

The Complaint Report (LIC 802) is used to document a complaint during the intake process when a complainant calls the Centralized Complaint and Information Bureau or the Regional Office (RO).

During the investigation, the LIC 802 is used to thoroughly document the complaint and details of the case.

Completing the Complaint Report (LIC 802)

The final steps for filling out an LIC 802 are completed by the investigating Licensing Program Analyst (LPA). The table below provides guidance for the LPA on completing the LIC 802.

Step	Action
1	Determine the Status of the Allegations and mark the appropriate box.
2	Link all associated FAS documents.
3	Sign and date and insert the time the form was completed.

For more information, see 3-2112: Completing a Complaint Report (LIC 802).

When is the LIC 802 completed?

Upon completion of the investigation, the LPA must

- complete the LPA Checklist for Complaint Review (LIC 9230)
- submit the hard copy of the LIC 802 along with all associated documentation to the Licensing Program Manager (LPM) for review, and
- submit the complaint, with all associated documents linked, to the LPM for approval via the Field Automation System (FAS).

Note: LPMs must review Priority 1 and 2 complaints with their LPAs and make the determination whether a legal consultation is needed prior to issuing findings in the case.

3-2503: Complaint Investigation Report (LIC 9099)

What is the Complaint Investigation Report (LIC 9099)?

The Complaint Investigation Report (LIC 9099) is the official form for documenting each inspection at the facility. It enables the LPA to quickly report and record findings observed or discovered during the investigation.

The LIC 9099 identifies

- who conducted the investigation
 - the purpose of the investigation
 - who signed the report at the facility
 - the complaint allegation(s)
 - each specific finding from the investigation each time the LPA was at the facility, and
 - the determination (the resolution at the end of the investigation).
-

Required elements of the LIC 9099

The LPA must ensure that all information is accurate on the LIC 9099 and contains all of the required elements. Examples of some of these requirements are listed below.

- Include names of the investigating LPA and facility representative.
- Identify the investigative task performed (for example, physical plant inspection, records review, interviews).
- Document the specific reason for the inspection and allegation(s), and either
 - the determination, or
 - that further investigation is needed, with the estimated dates for completion.

Note: For more information on using the LIC 9099, see Reference Material for Documentation, 3-3250: Complaint Investigation Report (LIC 9099).

Continued on next page

3-2503: Complaint Investigation Report (LIC 9099), Continued

When is the LIC 9099 completed?

The LPA completes the LIC 9099 prior to departing the investigated facility, and after the appropriate

- records review
- on-site inspection, and
- interviews.

Note: A complaint investigation at an unlicensed facility is documented using the LIC 9099 form, whether or not a Notice of Violation of Law is also issued.

When further investigation is required

When an investigation warrants more than one on-site inspection at the facility, the LPA still completes a LIC 9099 prior to departing the facility. This is done after each instance of on-site investigation, even if a determination has not been made.

When multiple LIC 9099 forms are used to document a case in this way, a determination of **substantiated**, **unsubstantiated**, or **unfounded** is **only** indicated on the final LIC 9099 form used in the series.

The steps for completing the LIC 9099 when further investigation is required are shown in the table below.

Step	Action
1	Check the <i>Needs Further Investigation</i> box on the LIC 9099.
2	Do not check the boxes marked <i>Public</i> or <i>Confidential</i> . The LIC 9099 will remain in the confidential file while the investigation continues and until a determination is made.
3	Provide an estimated date of completion for the investigation (for example: 30, 45, 60, or 90 days).

Note: In compliance with the Department’s policy, complaint investigations must be completed within 90 days.

3-2504: LIC 9099 Process and Procedure

LIC 9099: recording the determination

The determination for an investigation is recorded on the Complaint Investigation Report (LIC 9099) as

- Needs Further Investigation
- Unfounded
- Substantiated, or
- Unsubstantiated.

For more information on completing the LIC 9099 form, see Reference Material for Documentation.

How to document allegations

The table below provides guidance on documenting allegations using one or multiple LIC 9099 forms, Complaint Investigation Report continued (LIC 9099C) forms, or Complaint Investigation Report additional (LIC 9099A) forms.

If ...	Then ...
there are one or more allegations, sufficient space for the required narrative, and all the allegations share the same determination	the LPA may use one LIC 9099 to document the investigation.
there is one allegation, but insufficient space for the required narrative	the LPA uses one LIC 9099 and as many LIC 9099C forms as are necessary to document the investigation.
there is more than one allegation, and the determinations for the allegations are different (for example, one allegation is substantiated and another is unfounded)	the LPA uses a LIC 9099 for the first determination and a LIC 9099A for each additional determination when documenting the investigation.
multiple allegations are being documented on LIC 9099 and LIC 9099A forms, but there is insufficient space for the required narrative on any of these forms	the LPA uses one or more LIC 9099C forms to continue the narrative for any allegation that requires additional space.

Note: Regardless of the number and types of forms used to record the investigation narrative, above, all citations and Plans of Correction are always documented using the LIC 9099D form.

Continued on next page

3-2504: LIC 9099 Process and Procedure, Continued

Guidelines for recording the determination

The Licensing Program Analyst (LPA) must clearly state the evidence supporting the finding for each allegation when documenting the determination. The table below provides definitions of when each of the four possible types of determinations can be made.

For more information, see Reference Material for Documentation, 3-3251: Using the Complaint Investigation Report and 3-3252: Writing a Complaint Investigation Report.

Determination	Definition
Needs further investigation	An allegation has not yet been given a determination of either unfounded, substantiated, or unsubstantiated.
Substantiated	An allegation that is considered valid because the preponderance of the evidence standard has been met.
Unsubstantiated	An allegation that lacks a preponderance of the evidence to prove that the violation occurred.
Unfounded	An allegation that is considered invalid because the evidence shows it could not have happened, is false, and/or is without a reasonable basis.

Documenting the Plan of Correction

The Plan of Correction (POC), including the due date, is documented on the LIC 9099D form.

For more information on the complaint investigation POC process and procedures, see 3-2501: Documentation Best Practices, 3-2508: Proof of Correction, 3-2651: Exit Interview, and 3-2652: Plan of Correction.

Continued on next page

3-2504: LIC 9099 Process and Procedure, Continued

Documenting findings

Findings are the evidence that support the determination in a complaint investigation. When documenting each specific finding from the investigation, the LPA must ensure that

- allegations on the Complaint Report (LIC 802) and LIC 9099 match
- the LPA is adhering to confidentiality statutes
- the supporting evidence for the determination of allegations is clearly documented, and
- each allegation has documentation of the investigation and findings.

Authority: Health and Safety Code (HSC), sections 1536(b), 1538(c)(2), 1568.071(b), 1569.35(b), and 1596.853(c).

Example: documenting the reason for findings

When documenting the reason for findings, the LPA must provide strong, supportive documentation, such as sources of evidence, how evidence proves or disproves the allegation, and the conclusion based upon the evidence.

The LPA’s documentation must be thorough, accurate, and support the determination based upon specific and objective facts and findings.

The table below provides an example determination statement, with the components of the statement highlighted by the type of supportive documentation required to form a strong statement.

Component	Example Statement
Source of evidence	After obtaining the police report, ...
How the evidence proves or disproves the allegation	... which concluded that [X] had occurred as alleged, ...
Source of evidence	... and conducting interviews with witnesses ...
How the evidence proves or disproves the allegation	... that were consistent in their facts establishing that [X] has occurred, ...
How the evidence proves or disproves the allegation	... and that the facility did not take the actions needed to prevent [X], ...
The determination based on the evidence	... the allegation of [X] is substantiated.

Continued on next page

3-2504: LIC 9099 Process and Procedure, Continued

Recording changes to the determination

Sometimes the determination in a complaint investigation will change as the result of an appeal. In these situations, the LPA must consult with the Licensing Program Manager for instructions on

- updating the Appeal Log in FAS
- amending the existing LIC 9099 (or creating a new one, if necessary), and
- notifying the complainant that the determination has changed.

For more information on these procedures, see 3-2704: Notifying the Complainant.

Documenting the exit interview

The LPA must document when and with whom the exit interview of an investigation was conducted. If a deficiency were cited, the LPA must document

- that specific statutes, regulations, or Interim Licensing Standards applicable to the deficiency were cited
- that facility representatives received and understood appeal rights, and
- the POC that was discussed and agreed upon.

Note: When the exit interview occurs at a Child Care facility, the LPA must also document that the Notice of Site Visit was posted.

Handling of confidential information on the LIC 9099

When documenting a complaint case, the LPA must observe the following guidelines:

- The substance of a complaint **must not** be provided to the licensee prior to the time of the on-site complaint inspection.
- **At no time** may the Department disclose the name of any person mentioned in the complaint, other than employees, officers, and representatives of the Department.

The complainant may choose to waive anonymity by making a specific request to this effect.

Authority: HSC, sections 1538(b), 1568.071(b), 1569.35(b), and 1596.853(b).

Important! Any reference to a Certified Family Home or Resource Family Home on an LIC 9099, must not include any information that might identify the facility.

3-2505: Facility Evaluation Report (LIC 809)

What is the Facility Evaluation Report (LIC 809)?

The Facility Evaluation Report (LIC 809) is the official public document that is a written record of a non-complaint related facility inspection as well as office meetings. The electronic version of the LIC 809 form includes the LIC 809C for narrative overflow and the LIC 809D for writing up citations of Type A and Type B violations and Plans of Correction.

During a complaint investigation, the LIC 809 is primarily used to document case management issues not related to the complaint.

When an unrelated deficiency is found during investigation

If a deficiency not related to the complaint is found during an on-site investigation, the Licensing Program Analyst (LPA) must

- document each non-complaint-related deficiency using a LIC 809 and Facility Evaluation Report deficiencies (LIC 809D) form
- sign and date the LIC 809 and LIC 809D, and
- leave a copy with the facility.

For more information on documenting deficiencies found during an on-site inspection, see Reference Material for Documentation.

Recording additional deficiencies

When deficiencies are found during the course of an investigation, the LPA must document these deficiencies using either the Complaint Investigation Report (LIC 9099) form or an LIC 809 form.

The table below provides guidance for documenting additional deficiencies during a complaint investigation.

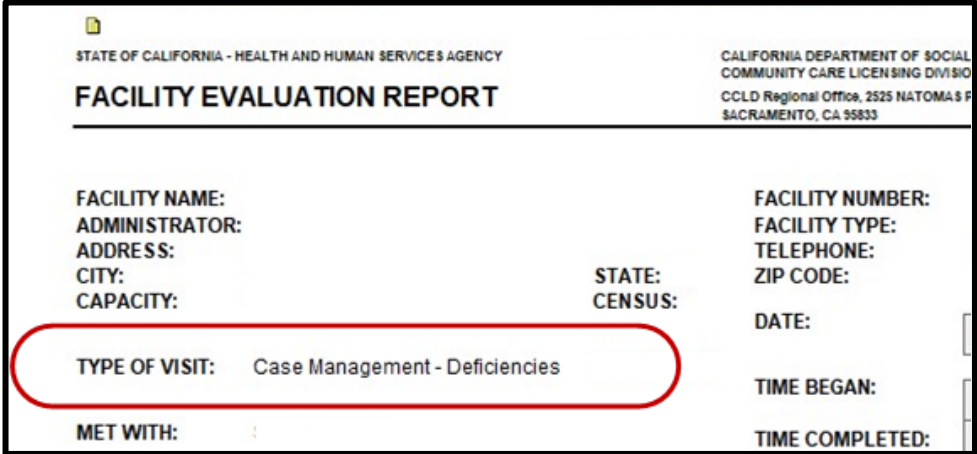
If ...	Then ...
additional deficiencies are found which relate to the original complaint	the LPA documents these deficiencies using the same LIC 9099.
additional deficiencies are found which do not relate to the original complaint	the LPA documents these deficiencies using a separate LIC 809 as case management. Note: When completing a LIC 809 for this purpose in FAS, in the <i>Type of Visit</i> drop-down menu, the LPA selects “Case Management – Deficiencies.”

Continued on next page

3-2505: Facility Evaluation Report (LIC 809), Continued

Recording additional deficiencies: procedure

During the course of a complaint investigation, additional deficiencies unrelated to the original complaint must be documented by the LPA on an LIC 809 form. The table below shows the steps for documenting these sorts of deficiencies as case management deficiencies in FAS.

Step	Action
1	The LPA documents the original complaint allegation(s) using an LIC 9099 form.
2	The LPA documents the unrelated additional deficiencies discovered during the investigation using a separate LIC 809.
3	<p>Under <i>Type of Visit</i> at the top of the LIC 809, the LPA selects the “Case Management – Deficiencies” option from the drop-down menu, as shown in the graphic below.</p> 

For more information on filling out the LIC 809, see Reference Material for Documentation, 3-3200: Facility Evaluation Report (LIC 809).

Continued on next page

3-2505: Facility Evaluation Report (LIC 809), Continued

Recording additional deficiencies: example

The table below provides an example of how a LPA might document a deficiency which is found during the on-site investigation of a complaint at a particular facility.

Step	Example Actions
1	The LPA receives a complaint alleging inadequate supervision at a licensed facility.
2	The LPA makes an on-site inspection of the facility, and finds a broken window with sharp, jagged edges while touring the facility.
3	The LPA recognizes that this broken window is a deficiency, but that it is not related to the original complaint of inadequate supervision.
4	At the conclusion of the on-site inspection, the LPA documents the broken window using an LIC 809 as case management. A citation is issued on an LIC 809D form.
5	The LPA completes the LIC 9099 that is used to document evidence, findings and determination related to the inadequate supervision complaint.

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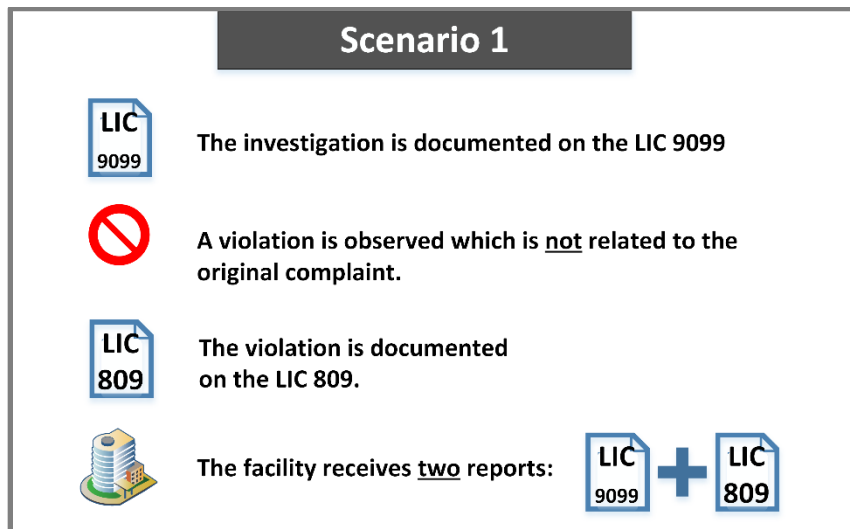
3-2505: Facility Evaluation Report (LIC 809), Continued

Leaving reports with the facility (1 of 2)

When a citation is issued which is not related to the original complaint, at the conclusion of the on-site investigation the Licensing Program Analyst provides the facility with

- a copy of the LIC 809 for the case management on that citation, and
- a copy of the LIC 9099 documenting the on-site findings of the complaint.

The graphic below shows the scenario in which copies of both the LIC 809 and LIC 9099 reports are left with the facility.



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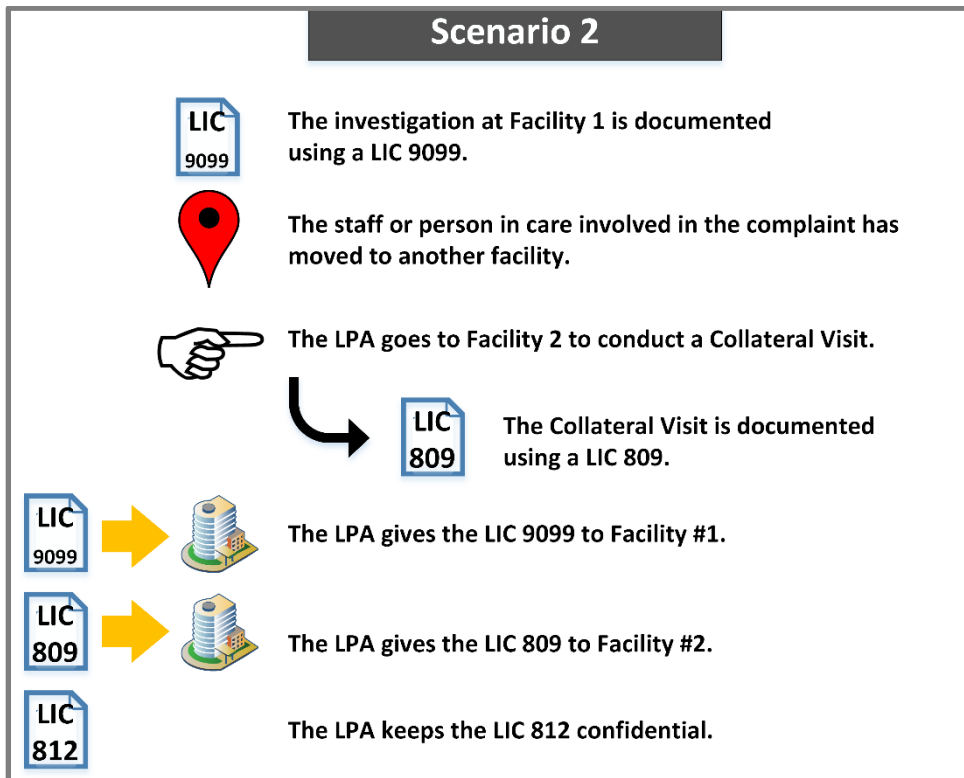
3-2505: Facility Evaluation Report (LIC 809), Continued

Leaving reports with the facility (2 of 2)

When a staff member or person in care connected with a complaint investigation (for example, as a victim or witness) has moved to a different licensed facility since the alleged incident occurred, the LPA must perform a **Collateral Visit** to obtain this person’s testimony. When this is done, the LPA must

- document the fact that a collateral visit was made using a LIC 809
- take the required testimony using a confidential Detail Supportive Information (LIC 812) form, and
- complete a LIC 9099 to document the investigation at the facility where the alleged incident took place.

In this scenario, a copy of LIC 809 is left with the facility where the collateral visit took place, while a copy of the LIC 9099 is left with the facility where the alleged incident took place. The graphic below shows this scenario.



3-2506: Detail Supportive Information (LIC 812)

What is the LIC 812?

The Detail Supportive Information (LIC 812) is a form used to document confidential topics, including, but not limited to

- detailed observations
- interviews
- phone calls
- cross-reports and records
- detailed notes to support an investigation determination, and
- information about postponed complaint site inspections.

When does an LPA use the LIC 812?

The LIC 812 is used when the Licensing Program Analyst (LPA) needs to document interviews and evidence obtained during the complaint investigation process, during facility inspections, and anytime the LPA obtains confidential information related to a facility.

Confidentiality of the LIC 812

The LIC 812 form is **always** considered a confidential document, and is **never** provided to the facility representative upon conclusion of an inspection or investigation.

Important! The Licensing Program Analyst must be aware that, despite being a confidential form, the LIC 812 can be made public as a result of a Public Records Act request. In this case, confidential information (such as the names of persons in care) must be redacted before the document is released.

For more information on confidentiality and the LIC 812 form, see Reference Material for Documentation, 3-3303: Detail Supportive Information (LIC 812).

3-2507: Declaration (LIC 855)

What is the LIC 855?

A Declaration (LIC 855) is a form used for recording a testimonial statement from an adult witness. The LIC 855 is used when conducting an interview is not an option. It is available in the print-only forms library.

For detailed information on completing the LIC 855 form, see Reference Material for Documentation, 3-3305: Declaration (LIC 855).

Note: Regarding a minor completing the LIC 855, the Licensing Program Analyst (LPA) must consult with their Enforcement Attorney.

Using the LIC 855

A signed testimonial statement from a witness or other individual involved in a case can be used by an attorney in a legal proceeding. The use of an LIC 855 form to accept a statement is helpful, but not required, as it is permissible to write a declaration on any piece of paper, provided that all the required components of the statement are present.

Note: If the LIC 855 form is unavailable for some reason, it is acceptable to use a sheet of lined paper to obtain a declaration.

When is witness testimony obtained?

Normally, any interview conducted by a LPA will be documented on an LIC 812 form.

However, there are occasions when taking a signed witness statement becomes necessary. This may include situations when

- a very serious deficiency may require legal action
 - the witness has limited availability for an interview
 - serious circumstances allow insufficient time for the matter to be referred to the Investigations Bureau, or
 - there is a high probability that a witness may change their story if a statement is not taken immediately.
-

Acceptable means of providing a signed declaration

It is best that a LIC 855 is signed in person by the individual providing the statement. However, if the situation does not allow for this, it is acceptable for the individual to complete the LIC 855 remotely, then sign and return it to the LPA as

- a digitally scanned document image, or
 - a fax.
-

3-2508: Proof of Correction (LIC 9098)

Using a LIC 9098 form without a POC meeting or inspection

Typically, a Proof of Correction (LIC 9098) form is used in conjunction with a Plan of Correction (POC) meeting or inspection to verify correction of deficiencies. Use of the LIC 9098 to verify correction of a deficiency by other means is an option available to the Licensing Program Analyst (LPA) in certain circumstances.

There are two circumstances under which this option is permitted:

1. When the facility representative indicates on the Plan of Correction that the deficiencies will be corrected by a specified date and verification sent to the Regional Office.
2. When the licensee or administrator, in compliance with specific criteria, is permitted by the Regional Office to **self-certify** that the correction has been made.

For more information on POC meetings and certification that a deficiency has been cleared, see Reference Material for Documentation, 3-3400: Plan of Correction, and 3-3450: Clearing the Deficiency.

How is verification of proof of correction provided?

When self-certification of a correction is permitted, the licensee may, as appropriate to the deficiency, provide verification of correction with a

- photograph
 - copy of a document
 - work order, or
 - Live Scan receipt.
-

Continued on next page

3-2508: Proof of Correction (LIC 9098), Continued

Evaluation of proof of correction

When proof of correction is received from the licensee or facility administrator, the LPA must evaluate whether the proof is sufficient to clear the deficiency. The table below provides guidance on determining next steps based on whether or not the evidence of correction provided by the licensee is sufficient.

Note: The LPA must consult with the Licensing Program Manager to determine if evidence is sufficient and obtain guidance on next steps.

If ...	Then ...
the evidence of correction is sufficient	the LPA must <ul style="list-style-type: none"> • clear the deficiency • send a Letter of Deficiency Citations Cleared (or, for county staff, a Deficiency is Cleared letter) to the facility.
the evidence of correction is not sufficient	the LPA must <ul style="list-style-type: none"> • call the licensee and document the call using a Detail Supportive Information (LIC 812) form (when applicable, follow up this phone call with a letter or email) • conduct a Proof of Correction inspection (if applicable), and • send an Incomplete Proof of Correction letter to the licensee.

Filing the LIC 9098

When a completed LIC 9098 form and associated documents **do not** contain the names of persons in care or other confidential information, the LPA files the LIC 9098 in the **public** section of the facility file.

3-2600: Making the Determination

Overview

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3-2601: Gathering Evidence

Attributes of evidence

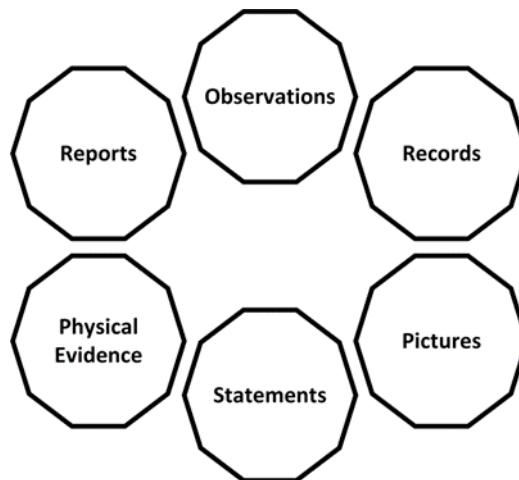
Investigation cases are only as good as the evidence that supports them. When considering evidence to evaluate the substance of an allegation, the Licensing Program Analyst (LPA) must seek evidence which is **clear**, **strong**, and **persuasive**.

The table below describes the traits of evidence to be preferred by the LPA, licensing attorneys, and the Department.

If ...	Then ...
the evidence is clear	the evidence cannot be <ul style="list-style-type: none"> • ambiguous • vague, or • confusing.
the evidence is strong	the evidence cannot be <ul style="list-style-type: none"> • timid, or • compromised
the evidence is persuasive	the evidence cannot be <ul style="list-style-type: none"> • weak, or • invalid.

Sources of evidence

There are six main **sources** of evidence, as shown in the graphic below.



Continued on next page

3-2601: Gathering Evidence, Continued

Observations and reports

Though not an exhaustive list, observations and reports from the following individuals and agencies can be used as evidence in an investigation:

- Adult Protective Services
- Banking, financial institutions, and payee services
- Bureau of Medi-Cal Fraud and Elder Abuse
- Community Care Licensing staff
- Child Protective Services
- Code enforcement
- Coroner’s Office
- Emergency Medical Services, fire personnel, or paramedics
- Hospital and medical staff
- Law enforcement
- Local (or other) Regional Center
- Mandated reporter
- Ombudsman
- Other state or local agencies
- Probate/Conservator’s Office

Physical evidence (1 of 2)

The table below provides examples of the most common types of physical evidence in an investigation case.

Type of Physical Evidence	Examples
Items	<ul style="list-style-type: none"> • Clothing • Medication • Photograph and/or video • Weapon
Reports	<ul style="list-style-type: none"> • Autopsy • Declaration or Statement • Fire Inspector’s report • First responder report • Incident report • Ombudsman’s report • Police report

Continued on next page

3-2601: Gathering Evidence, Continued

Physical evidence (2 of 2)

The table below provides examples of the most common types of physical evidence in an investigation case.

Type of Physical Evidence	Examples
Certified documents	<ul style="list-style-type: none"> • Court document • Death certificate
Records	<ul style="list-style-type: none"> • Building code enforcement records • Facility records • Facility staff files • Mandated reporter records • Medical records • Resident files

Who can provide a statement?

Taking a statement or declaration from a person involved in a case is one source of evidence that can be gathered in an investigation. A statement might be taken from

- an advocate
- an agency professional
- an eyewitness
- an expert
- a medical professional
- another witness
- a suspect
- a subject, or
- a victim.

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3-2601: Gathering Evidence, Continued

Who can a witness be?

Witnesses in a case may include, but are not limited to, any of the following people:

- Adult Protective Services personnel
- Caregivers
- Child Protective Services personnel
- Conservators
- Persons in care
- First responders
- Former staff of the facility
- Medical professionals
- Neighbors
- Ombudsman
- Relatives
- Siblings

Note: Medical professionals include, but are not limited to, emergency room staff, medical examiners, family doctors, and clinic staff.

3-2602: Direct, Circumstantial, and Hearsay Evidence

Categories of evidence Evidence in an investigation always fits one of three basic categories:

- direct evidence
- circumstantial evidence, or
- hearsay evidence.

Direct evidence ***Direct evidence*** is personally experienced or observed by the witness.

Circumstantial evidence ***Circumstantial evidence*** paints a picture around an event which leads to a logical conclusion that the event occurred.

Hearsay evidence ***Hearsay evidence*** is something that the witness heard another person say about an event.

Significance of hearsay evidence Hearsay is **not** admissible evidence to support a finding of fact, unless a specific ***exception*** exists to allow its admission.

If hearsay evidence is admissible over objection because a specific exception applies, then a finding **can** be based on the hearsay evidence.

If there is no specific exception, then a finding **cannot** be based on the hearsay evidence alone. Another kind of evidence (direct or circumstantial) must be present.

What is not admissible as evidence in a case? The following are **not** admissible as evidence in an investigation:

- Polygraph test
- Voice stress test
- Certain character evidence

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3-2602: Direct, Circumstantial, and Hearsay Evidence, Continued

Exception to the hearsay rule: administrative hearsay

There are many exceptions to the hearsay rule that allow the admission of hearsay evidence, as long as the hearsay is sufficiently reliable and trustworthy.

Unlike civil court proceedings, in administrative hearings, any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to relying in conducting serious affairs, regardless of whether the evidence would otherwise be excluded in civil court proceedings.

This type of evidence is also known as **administrative hearsay** and may be used to supplement or explain other admissible evidence, but may not, if objected to, be used to support a finding unless an exception to the hearsay rule exists.

Note: If a Licensing Program Analyst (LPA) is unsure whether hearsay evidence may impact the determination in an investigation, the LPA must defer to their Licensing Program Manager (LPM) and request to contact the consulting attorney assigned to the Regional Office.

Example: hearsay in a child abuse case

The following example illustrates how the LPA may evaluate whether received testimony is or is not hearsay.

Example: A child tells a social worker that she was sexually assaulted by her foster parent. The social worker tells police about the assault. The issue addressed at the hearing is whether the child was sexually assaulted.

The table below describes which of these testimonies is hearsay, double hearsay, and not hearsay.

Testimony from	Is the Testimony Hearsay?
the social worker	The testimony is hearsay (the social worker heard it from the child).
the police	The testimony is double hearsay (the police heard it from the social worker, who heard it from the child).
<ul style="list-style-type: none"> • the child • a therapist or other expert • a doctor (with medical evidence) 	The testimony is not hearsay (the testimony is from first-hand experience or expert knowledge regarding the event).

3-2603: Evaluating Statements

Evaluation of the evidence

Determining whether a complaint is unfounded, unsubstantiated or substantiated depends on a careful assessment of the

- quantity
- quality, and
- context of the evidence.

Note: LPAs must consult with their LPM and the Legal Division when questions or concerns arise when evaluating statements, especially for cases alleging abuse.

Determining capacity to testify

There is a presumption of an individual’s capacity to testify regardless of age or disability. To testify, an individual must possess

- the capacity to observe
- sufficient intelligence
- adequate memory
- ability to communicate
- awareness of the difference between truth and falsehood, and
- an appreciation of the obligation to tell the truth.

Witness direct experience

To be a witness, a person must have direct experience with the event in question.

Direct experience means the witness must use their senses (sight, touch, smell, etc.) to perceive, understand, and remember the occurrence of an event, then communicate it to another person.

Note: A witnesses’ memory does not need to be perfect. Imperfections in recollection impact the **amount of weight** the testimony will be given, not whether the testimony will be admitted as evidence.

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3-2603: Evaluating Statements, Continued

Evaluating witness statements

The table below provides several factors for the LPA to consider when weighing the statements of a witness.

Aspect	LPA Considers
The witness	<ul style="list-style-type: none"> • To what extent can the individual perceive, recollect, or communicate? • Does the individual show hostility? • Does the individual have <ul style="list-style-type: none"> ○ an interest in the outcome ○ a motive to lie ○ a prior felony conviction, or ○ a reputation of honesty or adhering to the truth? • Did the individual <ul style="list-style-type: none"> ○ not explain an important point ○ willfully suppress evidence ○ admit dishonesty?
The statement	<ul style="list-style-type: none"> • What is the content and character of the statement? • Does a bias, interest, or other motive exist? • Does the story make sense? • Is this statement consistent with subsequent statements? • Is the statement based on the witness' personal knowledge of the matter?

Witness reputation for untruthfulness

An individual's reputation of untruthfulness is ***circumstantial evidence*** that the statement of the individual's version of events is also a lie.

Inconsistent witness statements

Previous statements by an individual that are inconsistent with the present statement tend to cast doubt on the truthfulness of all the individual's statements. The extent to which the individual's statements are consistent over time tends to influence the confidence with which the truthfulness of the individual's statements can be regarded.

Continued on next page

3-2603: Evaluating Statements, Continued

Documenting credibility of a witness

Sometimes one witness in an investigation may be more credible than another. The LPA **cannot** document the perceived credibility of a witness, but may document a witness’ behavior during an interview or testimony, such as

- changes in body language
- shifting eye gaze, and/or
- stuttering speech.

Credibility of a victim report (1 of 2)

The table below identifies several factors for the LPA to consider when evaluating the credibility of a victim’s statement.

Factor	LPA Considers
Physical evidence	Physical and medical indicators, including but not limited to <ul style="list-style-type: none"> • genital tears • pregnancy • sexually transmitted diseases, and • vaginal enlargements.
Psychological reports	Do reports which support or refute the trauma exist?
Reported history of sexual abuse	<ul style="list-style-type: none"> • Is there a known history of sexual abuse? • The extent to which the victim’s family’s behavior is consistent with behavior of other families in which sexual abuse is known to have occurred.
Cognitive development	<ul style="list-style-type: none"> • Extent to which the victim can differentiate fact from fantasy. • Is the victim’s overall story logical?
Consistency	<ul style="list-style-type: none"> • Is the victim’s version of abuse consistent over time? • Does the victim’s story contain retractions or has it been recanted?
Language	<ul style="list-style-type: none"> • To what extent does the victim <ul style="list-style-type: none"> ○ use typical adult terms? ○ use their own vocabulary? • If the victim’s vocabulary changes, do facts remain the same? • Is the event told from the victim’s viewpoint?

Continued on next page

3-2603: Evaluating Statements, Continued

Credibility of a victim report (2 of 2) The table below identifies several factors for the LPA to consider when evaluating the credibility of a victim’s statement.

Factor	LPA Considers
Behavior	Extent to which the victim’s behavior is consistent with the allegations. Note: For more information on recognizing signs of abuse, see 3-2105: Mandated Reporting.
Age/developmentally inappropriate sexual knowledge	Extent to which the victim’s statement relates progression of sexual activity. Example: Does a five-year-old express detailed knowledge of fellatio, including ejaculation?
Details	Extent to which the victim has good recall of details.
Motives	<ul style="list-style-type: none"> • To what extent does the victim’s description of abuse relate elements of pressure or coercion? • Does any information exist that would indicate a reason for the victim to lie?
Credibility history	Does the victim have any history of <ul style="list-style-type: none"> • telling the truth, or • lying?

3-2604: Analyzing All the Evidence

When is the evidence in a case analyzed?

In an investigation, after statements from the victim and witnesses are evaluated, the Licensing Program Analyst (LPA) must analyze all the gathered evidence.

Note: Analysis of all the evidence includes reviewing reports obtained from the Investigations Branch for evidence regarding each allegation.

Questions for analyzing evidence

The table below provides a guideline for analysis of the evidence in an investigation.

Evidence	LPA Considers
Witness statements	<ul style="list-style-type: none"> • Do all statements corroborate each other? • Are there inconsistencies?
Expert statements	Are the injuries or harm consistent with other statements?
Physical evidence	Has all physical evidence been considered?
Medical Evidence	Has all medical evidence been considered, including psychological reports?
Reports	Have all reports prepared by other agencies been considered, including reports from law enforcement?
Overall	<ul style="list-style-type: none"> • Does the evidence substantiate the complaint? • Does the evidence substantiate an alternate allegation?

Evaluating evidence in cases of abuse

When evaluating evidence in cases of physical or sexual abuse, the LPA must review the evidence with the Licensing Program Manager to determine

- if a Clinical Nurse Consult or Legal Consult is necessary, and
- to what extent the data is present to indicate
 - medical evidence of sexual or physical abuse
 - convincing disclosure by the victim, and/or
 - corroboration of the abuse (such as admission of guilt by the alleged perpetrator).

Important! The LPA must balance the statements of the individuals in the case and consider the evidence as a whole.

Continued on next page

3-2604: Analyzing All the Evidence, Continued

Avoiding assumptions prior to the determination

Important! As an investigation progresses and the number of findings increase, the LPA must refrain from making an assumption about the outcome of the investigation, even when the findings appear to be conclusive.

The LPA must remember that the quantity of evidence alone is **not** a sufficient basis for making a determination, and the determination is not made until the entire investigation is complete. Additional findings may change the determination.

When evidence does not substantiate a complaint, but warrants a deficiency

Sometimes, the evidence in a case does not substantiate the complaint, but it warrants a deficiency citation. In the example below, the LPA must respond procedurally to the evidence available in the case.

Example: The LPA **cannot** substantiate a complaint that the licensee hit the alleged victim, but the allegation does not appear unfounded. Separately, the LPA **can** substantiate that the victim's hand was burned because the water was too hot and therefore the licensee did not protect or properly supervise the victim.

The LPA responds as follows:

- The licensee is cited for the identified deficiencies, and the LPA documents the incident using a Facility Evaluation Report (LIC 809), because this is now treated as case management.
 - The complaint investigation is completed with a determination of unsubstantiated, because the evidence was insufficient to substantiate the allegation.
-

3-2605: New Evidence in an Investigation

Criteria for accepting new evidence

When a complaint investigation does not substantiate an allegation, it is possible for the complainant to provide new evidence of the allegation under certain circumstances. When the complainant provides new evidence to the Licensing Program Analyst (LPA), the LPA shall accept the new evidence if it

- was not available during the investigation, and
- is provided within 60 calendar days of the completion of the complaint investigation.

Note: Evidence received **after** 60 days following the investigation must be evaluated for acceptance by the LPA, in consultation with the Licensing Program Manager (LPM) and/or the Regional Manager, on a case-by-case basis.

Processing new evidence

The process for the LPA or LPM accepting new evidence from a complainant is shown in the table below.

If ...	Then ...
the LPA receives the new evidence	the LPA must submit the completed Complaint Report (LIC 802) and associated documentation to the LPM within ten business days of receiving the new evidence.
the LPM receives the new evidence (including new evidence and complaint documentation submitted by the LPA)	the LPM must determine if the new evidence warrants <ul style="list-style-type: none"> • additional investigation of the original complaint, or • opening a new complaint (for example, because the evidence provided is unrelated to the original complaint).

Continued on next page

3-2605: New Evidence in an Investigation, Continued

Additional investigation of a concluded case

When continuation of an investigation is warranted following the submission of new evidence by the complainant, the LPA follows the existing procedures for conducting a standard complaint investigation, including contacting the complainant with the (possibly revised or unchanged) determination.

Note: If the new evidence submitted does **not** warrant additional investigation, then the LPM must contact the complainant to communicate this decision.

Using findings from other agencies

Regardless of whether another agency (such as law enforcement) conducted an investigation of a given incident, the Department can use the findings (or lack thereof) from the other agency to decide what action, if any, shall be taken by the Department.

Findings and licensing action

In cases in which a law enforcement agency’s investigation did not find evidence sufficient to prosecute a criminal case, the findings from the agency may still serve as the basis for disciplinary licensing action by the Department.

If new evidence alleges a different violation

If warranted, the LPM may advise the LPA to contact the complainant to submit a new complaint if the new evidence alleges a different violation from the original complaint.

3-2606: Making the Determination and Applying the Proper Standard of Proof

Determination of allegations

When all available evidence in an investigation has been gathered and evaluated, the Licensing Program Analyst (LPA) investigating the case must make a determination that the allegation is

- substantiated (supported by the standard of proof)
- unsubstantiated (not sufficiently supported by the standard of proof), or
- unfounded (without merit or intended to harass).

Note: In cases with multiple allegations, a determination is made for each allegation contained in the complaint.

Allegations made as harassment

When a complaint is determined by the Department to be harassment and without substance, the complaint is closed by the Licensing Program Analyst without investigation and a determination of “unfounded” is recorded. For more information, see 3-2110: Recording a Complaint.

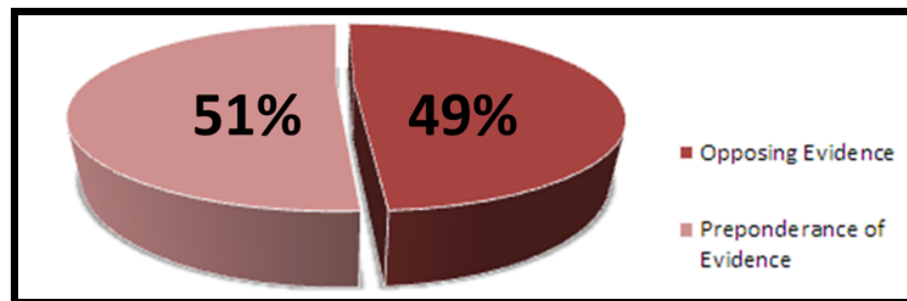
What is the standard of proof for a citation?

The proper standard of proof for a Community Care Licensing Division (CCLD) citation or other action is a **preponderance of the evidence**. A preponderance of the evidence means that more of the evidence than not must support a substantiated allegation.

To determine a preponderance of the evidence, CCLD must

- conduct an objective and reasonable review of all evidence, and
- determine that more likely than not the alleged incident occurred.

The graphic below shows how the preponderance of the evidence has more convincing force than the evidence opposed to it.



Continued on next page

3-2606: Making the Determination and Applying the Proper Standard of Proof, Continued

Other types of standards of proof

The table below compares the Preponderance of the Evidence standard of proof to two other standards of proof: the Evidentiary standard used in civil court cases, and the Criminal standard used in criminal cases.

Item	Preponderance of the Evidence Standard	Evidentiary Standard	Criminal Standard
Criteria for evidence	“51% of the evidence supports the allegation.”	“Clear and convincing.”	“Beyond a reasonable doubt to a moral certainty.”
Burden of proof	Lower than Criminal or Evidentiary standards	Higher than Preponderance of the Evidence	Higher than Preponderance of the Evidence
Applies to	Civil cases	Civil cases	Criminal cases
Examples of result	CCL citation	Revoke professional license	Incarceration

Investigations conducted by law enforcement

In general, investigations conducted by law enforcement apply the Criminal standard (“beyond a reasonable doubt”) in deciding whether to file criminal charges.

The LPA must remember that the “preponderance of evidence” standard is lower than the “beyond a reasonable doubt” standard. The LPA must not assume, simply because law enforcement authorities decide not to prosecute in a case, that sufficient evidence does not exist to pursue an Administrative Action.

Changing the determination

Determinations of unsubstantiated and substantiated may need to be changed under certain circumstances (for example, when a review of the evidence following an appeal supports the change).

Unfounded determinations are usually permanent, unless new evidence proves otherwise. For more information, see 3-2607: Is the Complaint Unfounded, Unsubstantiated or Substantiated?

3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?

Determination of the complaint allegations

Once the Licensing Program Analyst (LPA) has evaluated and analyzed all of the evidence in a complaint investigation, the LPA must determine whether the complaint is

- substantiated
- unsubstantiated, or
- unfounded.

Important! The LPA must review Priority 1 and 2 complaints with the Licensing Program Manager (LPM) prior to issuing findings.

When is a legal consultation necessary?

The LPA must defer to the LPM to consult with the Legal Division to determine next steps when

- a case is Priority 1 or 2
- a licensee cannot be located or reached and a complaint finding cannot be determined, or
- questions or concerns about the case arise.

Note: For complaints determined to be unfounded, legal consultation is determined on a case-by-case basis.

Documenting the complaint determination

The table below describes the codes that are used when documenting the determination for an allegation in a complaint investigation.

Code	Determination	Use This Determination When
(S)	Substantiated	The “preponderance of the evidence” standard has been met.
(US)	Unsubstantiated	The allegation may have happened or is valid, but there is not a preponderance of the evidence to prove that the alleged violation occurred.
(U)	Unfounded	The allegation is false, could not have happened, and/or is without a reasonable basis.

Continued on next page

3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?, Continued

When a complaint is unfounded?

Unfounded complaints must meet one of the three criteria below. Unfounded complaints mean that the allegation is

- false
- could not have happened, or
- is without a reasonable basis.

Unfounded complaints may imply a **lack of good faith** in the initial complaint report. The table below provides further explanation.

Criteria	Means	Example
False	Evidence exists to prove a fabrication.	Two credible witnesses provide separate statements indicating that the complainant admitted to reporting a false complaint with the intention of retaliation against the alleged perpetrator.
Could not have happened	Evidence exists proving that it is impossible for the allegation to have happened.	The alleged victim denies the abuse and the alleged perpetrator was out of the country at the time the alleged abuse took place.
Without a reasonable basis	When applying a reasonable person test, it is determined the allegation did not happen.	It is alleged that a person in care’s medication was not centrally stored and was improperly administered. The LPA reviews the person in care’s file, medication documentation, and physician assessment. The LPA finds that <ul style="list-style-type: none"> • the person in care was capable of storing and administering her own medication • the person in care’s medications were contained in a locked drawer, and • all staff and persons in care interviewed verified there was no evidence of a violation.

Continued on next page

3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?, Continued

Authority: unfounded complaints

The legal authority for determination of a complaint allegation as unfounded is contained in California statutes.

Authority: Health and Safety Code (HSC), sections 1536(b), 1538(c)(2), 1568.071(c), 1569.35(c)(1) and (d), and 1596.853(c).

Documenting unfounded allegations

When the allegations are determined to be unfounded, the LPA must inform the licensee, and document such on the Complaint Investigation Report (LIC 9099).

Unsubstantiated complaints

If reasonable people would disagree as to whether the allegation happened, or if the LPA thinks it happened but sufficient evidence cannot be obtained, then the complaint is **unsubstantiated**, not unfounded.

Unsubstantiated complaints: Priority 1 or 2

If an allegation for a Priority 1 or 2 complaint appears to be unsubstantiated, then, **prior** to entering a written determination of unsubstantiated in the LIC 9099, the LPA must inform their supervisor.

Note: The LPA may consult an attorney in the Legal Division when making a determination of “unsubstantiated” in a Priority 1 or 2 case, but this is not required. For more information, see 3-2183: Consulting with the Legal Division.

Substantiated complaints

A determination that the complaint is **substantiated** means that the allegation is valid because the preponderance of the evidence standard has been met.

The facility is cited and, when appropriate, an Administrative Action – such as a Temporary Suspension Order, Revocation, or Immediate Exclusion Order – is initiated.

Continued on next page

3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?, Continued

Authority: substantiated complaints

The legal authority for substantiating a complaint allegation is contained in California statutes and regulations.

Authority: HSC, sections 1538.5(a)(1), 1538.6(a), and 1538.5(b) through (b)(2). California Code of Regulations, Title 22, Section 80001(s)(9), 89201(s)(9), 81001(s)(9), 82001(s)(8), and 87801(s)(8).

For Child Abuse Central Index Cases: substantiated allegations

When all relevant information has been compiled and analyzed, the LPA must discuss any substantiated allegations of child abuse or neglect with the LPM. If the decision is not clear, the LPM may schedule a meeting with the Regional Manager.

Note: A substantiated allegation does not automatically result in denial of the application, exclusion of the employee, or an Order to the Foster Family Agency (FFA) to deny or revoke a certificate of approval.

If the substantiated allegations are serious enough to raise concern about that person being in contact with children in Community Care Licensing facilities, the Regional Office (RO) must consider

- employee exclusion, or
- Administrative Action against the
 - applicant
 - licensee, or
 - current or prospective Certified Family Home (CFH) or Resource Family (RF) home.

Patterns of substantiated complaints (CFHs and RFs only)

If the RO notices the same substantiated complaints in several CFHs or RF homes associated with the same FFA, the RO may treat that as an FFA case management issue.

Note: The RO may coordinate with other RO offices to develop joint case management inspections in cases where a pattern of substantiated complaints exists.

Continued on next page

3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?, Continued

Best practice when making the determination

When making the determination, following best practice means the LPA or LPM must make the determination based on known facts about each case, not based on assumptions.

The LPA or LPM must be mindful that

- each case is unique
- facts must be analyzed objectively
- the determination must be made on a case-by-case basis, and
- the Legal Division must be consulted as needed.

The table below provides examples of how common false assumptions can result in an incorrect determination.

Scenario	False Assumption	Fact
Only circumstantial evidence is found.	The allegation is unfounded.	In previous cases, courts have upheld a determination of “substantiated” based on circumstantial evidence alone, provided there is a preponderance of the evidence.
It is the victim’s word against the perpetrator’s.	The allegation is unsubstantiated.	A preponderance of the evidence may prove that the allegation occurred, even if the victim and perpetrator disagree.
The licensee or alleged perpetrator denies the allegation.	The allegation is either unfounded or unsubstantiated.	A preponderance of the evidence may prove that the allegation occurred, even if the alleged perpetrator denies the allegation.

3-2650: On-Site Inspection/Investigation Conclusion

Overview

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3-2651: Exit Interview

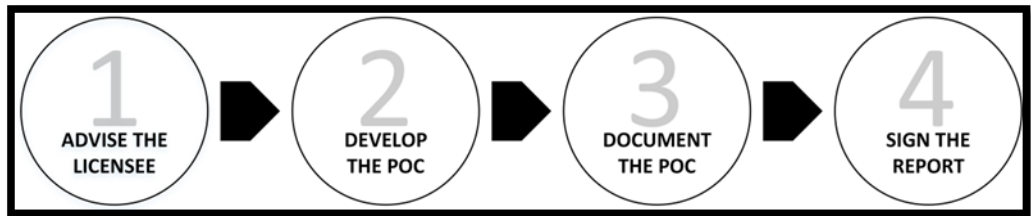
Conducting an exit interview

During the Exit Interview, the Licensing Program Analyst (LPA) discusses deficiencies with the licensee or administrator and supports development of a Plan of Correction (POC), if citation is warranted. If the licensee’s POC is insufficient, the LPA makes suggestions for amending the POC to bring the facility into compliance.

Important! Some deficiencies present a direct and immediate risk to the health, safety, or personal rights of a person in care. Deficiencies of this nature need to be corrected immediately.

POC and exit interview process

The following graphic shows the process for the Exit Interview.



Continued on next page

3-2651: Exit Interview, Continued

POC and exit interview: procedure

The LPA begins the exit interview by explaining that the licensee’s response may be written verbatim or summarized.

The table below provides guidance for the POC and exit interview procedure.

Step	Action
1	<p>Advise the Licensee</p> <p>The LPA must advise the licensee or administrator that the licensee</p> <ul style="list-style-type: none"> • has a right to provide comments on the Complaint Investigation Report (LIC 9099) • may submit an appeal in response to the complaint, and • must not include the names of persons in care, or relatives of persons in care, on any documentation submitted to the Department.
2	<p>Develop the POC</p> <p>The LPA and the licensee or administrator must</p> <ul style="list-style-type: none"> • jointly develop a POC for all deficiencies not corrected prior to the exit interview • ensure the POC goals are specific, measurable, and time-limited.
3	<p>Document the POC</p> <p>The LPA documents the POC on the Complaint Investigation Report deficiencies form (LIC 9099D).</p>
4	<p>Sign the Report</p> <ul style="list-style-type: none"> • The LPA asks the licensee or administrator to sign the LIC 9099. • The LPA provides the licensee or administrator with a copy of the signed LIC 9099. <p>Note: The licensee or administrator’s signature is an acknowledgement of receipt of the report, not agreement with the determination.</p>

Continued on next page

3-2651: Exit Interview, Continued

Notifying the licensee of abuse or neglect allegations

Important! If an allegation involves neglect, physical abuse, or sexual abuse by the facility administrator or a staff member upon a person in care, and the licensee is present at the time of the on-site inspection, then the LPA must

- find a confidential area, and
- inform the licensee of the specific allegations.

It is acceptable to disclose the name of the suspect to the licensee during the exit interview.

Explaining a licensee’s appeal rights

The LPA must inform the licensee that they have **15 business days** to request of the Department, in writing, a formal appeal of

- any deficiency cited, or
- any civil penalty assessed.

Exception: If the Department has ordered the licensee of a Residential Care Facility for the Elderly to suspend new admissions, the LPA must inform the licensee that if the licensee chooses to appeal the decision, they must do so within **ten business days** of receipt of the order.

Authority: California Code of Regulations, Title 22, Section 87765.

The LPA must also

- explain the appeal rights included in the LIC 9099, and
- print a copy of the Applicant/Licensee Rights (LIC 9058) for the licensee or facility administrator.

The LPA must document all these actions on the LIC 9099.

Reporting findings and determination for CFH and RF homes

Before exiting a Certified Family Home (CFH) or Resource Family (RF) home, the LPA must inform the CFH or RF parent that

- the findings and determination will be reported to the Foster Family Agency (FFA), and
- the CFH or RF parent may contact the FFA with any concerns or questions about the investigation.

3-2652: Plan of Correction

What is a Plan of Correction?

A **Plan of Correction** (POC) is a plan, written together by the licensee and the Licensing Program Analyst (LPA), which communicates to the Department and to the public how the licensee or administrator will bring the facility into compliance with statute and regulations. The POC is **not** a punishment to the licensee.

For more information on Plans of Correction, see Reference Material for Documentation, 3-3400: Plan of Correction.

Note: In a Temporary Suspension Order investigation, there is no POC because all persons in care have been relocated and the facility has been shut down.

Writing a Plan of Correction

When a deficiency has been cited, the licensee or administrator must provide one POC for each deficiency. Each POC must be

- specific
- measurable, and
- time-limited.

Example: A facility is cited for the following deficiency:

“The licensee has not provided a crib for an infant as required by California Code of Regulations, Title 22, Sections 101439(b) and 101439.1(b).”

The table below shows how language created for this POC satisfies the three components that must exist in any correctly written POC.

POC Component	Example POC Text
specific	agrees to purchase a crib
measurable	send proof of receipt and a photograph which shows the crib is set up and in use
time-limited	by October 14, 2020

The final POC for the example deficiency reads:

“The licensee agrees to purchase a crib and send proof of receipt and a photograph which shows the crib is set up and in use by October 14, 2020.”

Continued on next page

3-2652: Plan of Correction, Continued

POC due date and inspection deadline

The due date for a POC depends on the type of the deficiency.

- **Type A** violations require **immediate** correction (within 24 hours).
- **Type B** violations have a **longer** turnaround (no more than 30 days).

The deadline for the POC inspection is **ten** business days **after** the POC due date. If the LPA misses the ten-day deadline for the inspection and the corrections were not made and verified, then the LPA must

- document using a **new** Complaint Investigation Report (LIC 9099), and
- re-cite using a **new** Complaint Investigation Report deficiencies (LIC 9099D) form.

When it is necessary to re-document and re-cite in this manner, the clock begins all over again for fulfillment of the POC.

Note: Those deficiencies that were documented using a Facility Evaluation Report (LIC 809) will use that form for this process, instead.

POC extension requests for Type A violations

When a facility is likely to miss a POC due date, it is possible to extend the due date under certain circumstances. The table below outlines how and when a due date may be extended for a Type A violation.

Step	Action
1	The facility must resolve the immediate risk situation.
2	If there is not enough time before the established due date to reasonably carry out the POC for the deficiency in question, the licensee may request an extension from the LPA prior to the POC due date.
3	A request to extend the POC due date is submitted by the LPA to a higher-level staff person, normally the Licensing Program Manager, for approval.
4	A review of the request must be conducted by the higher-level staff.
5	If the request is approved, an extension of the due date may be granted for up to 30 days .

Continued on next page

3-2652: Plan of Correction, Continued

POC extension requests for Type B violations

When a facility is likely to miss a POC due date, it is possible to extend the due date under certain circumstances. The table below outlines how and when a due date may be extended for a Type B violation.

Step	Action
1	If there is not enough time to reasonably complete the POC for the deficiency, the licensee may request an extension from the LPA prior to the POC due date.
2	A request to extend the plan of correction due date is submitted by the LPA to the Licensing Program Manager for approval.
3	If the request is approved, an extension of the due date may be granted for up to 30 days .

Four ways to clear a deficiency

There are four ways to clear a cited deficiency. A deficiency may be cleared by

- immediate correction during the initial on-site inspection/investigation
- correction documented during a POC inspection
- correction documented during an office visit, or
- proof of correction submitted using a Proof of Correction (LIC 9098) form and accompanying evidence.

For more information, see Reference Material for Documentation, 3-3450: Clearing the Deficiency.

Note: In specific situations, a facility may be permitted to self-certify correction. For more information, see Reference Material for Documentation, 3-3454: Self-Certification.

Continued on next page

3-2652: Plan of Correction, Continued

When a deficiency is cleared during inspection

When a deficiency is cleared during the initial on-site inspection using the LIC 9099, the LPA must

- document each complaint-related deficiency on the LIC 9099
- state how it was corrected
- cite each complaint-related deficiency on the LIC 9099D form
- sign and date the LIC 9099 and LIC 9099D, and
- leave a copy with the facility.

Note: Deficiencies that have been documented using a LIC 809 will use that form for this process, instead.

When to conduct a POC inspection

POC inspections are conducted when **any or all** of the following three factors are true in a case:

- There is a high risk to the health and safety of persons in care.
- Inspecting the facility is the only way to verify correction.
- The facility has been identified as being historically non-compliant.

Addressing inadequate correction

Failure of a facility to provide adequate proof of correction by the POC due date may result in

- notification to the licensee that deficiencies have not been cleared
- a POC inspection of the facility, and/or
- assessment of applicable civil penalties, if appropriate.

Important! Foster Family Homes are exempt from civil penalty assessments for failure to correct a deficiency.

Return inspections

The LPA has **ten business days** from the POC due date to make a return inspection.

Important! If the LPA does not make a return inspection, the licensee/administrator must prove that the deficiency was corrected using the LIC 9098 form. For more information, see 3-2508: Proof of Correction (LIC 9098).

Continued on next page

3-2652: Plan of Correction, Continued

Deficiencies at a CFH or RF home	For deficiencies at a Certified Family Homes (CFH) or a Resource Family (RF) home, the Foster Family Agency staff will develop the written POC for the CFH or RF parent.
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3-2653: Sample Language for the Complaint Investigation Report – Community Care Facilities

Sample report language (community care facilities)

In response to a substantiated complaint at a **community care facility**, the Licensing Program Analyst must enter the sample language provided in this section when completing the narrative portion of the Complaint Investigation Report (LIC 9099). The sample language in this section is used for

- substantiated allegations of abuse
- substantiated allegations for a violation previously substantiated, and
- failure to send notice of a substantiated complaint

Important! The sample language provided in this section references the Community Care Facilities Act only, and cannot be applied directly in investigations at

- Residential Care Facilities for the Elderly
- Residential Care Facilities for the Chronically Ill, or
- Child Care facilities.

Sample A: substantiated allegation of abuse in a community care facility

The sample language below must be used when the complaint investigation **substantiates** acts of physical or sexual abuse against persons in care in a community care facility.

[Name(s) of licensee(s)] was informed that a complaint regarding person in care abuse was substantiated. *[Complete the paragraph with information regarding the detail of the violation.]*

Pursuant to Health and Safety Code section 1538.5(b)(1), within three days from the date of this report, the licensee must send, by certified mail, copies of this Complaint Investigation Report (LIC 9099) to the authorized representative of each person in care.

The licensee was informed that written proof (certified mail receipt) must be retained by the licensee at the facility for future review by the licensing agency, pursuant to Health and Safety Code section 1538.5(c).

Continued on next page

3-2653: Sample Language for the Complaint Investigation Report – Community Care Facilities, Continued

Sample B:
substantiated allegation for the same violation in a community care facility

The sample language below must be used when three complaints for the same violations have been substantiated in a community care facility.

[Name(s) of licensee(s)] was informed that three complaints for violations of *[insert violation]* have been substantiated against the *[name of facility]*. *[Complete the paragraph with information regarding the detail of the violation.]*

Pursuant to Health and Safety Code section 1538.5(b)(2), by the date *[enter date]* agreed upon (between licensee and the licensing analyst), the licensee must send, by certified mail, copies of the Complaint Investigation Report (LIC 9099) to the authorized representative of each person in care. The licensee was informed that written proof (certified mail receipt) must be retained by the licensee at the facility for future review by the licensing agency.

Sample C:
failure to send notice of substantiated complaint in a community care facility

The sample language below must be used when the licensee has failed to send a notice of a substantiated complaint at a community care facility.

[Name(s) of licensee(s)] has violated Health and Safety Code section *[1538.5(b)(1) or 1538.5(b)(2)]* for failure to send notifications of substantiated complaints, by certified mail, for violation of *[insert violation]* to each person in care’s authorized representative, by the specified date *[insert date]*.

[Name(s) of licensee(s)] shall correct this deficiency by sending the notification of substantiated complaints by *[enter date]*. If the deficiency is not corrected by *[enter date]*, the Department will initiate civil penalty action against the licensee in accordance with the California Code of Regulations, Title 22, Section 80054.

3-2660: Special Situations During the Inspection/Investigation Process

Overview

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3-2661: Suspension of New Admissions at Residential Care Facilities for the Elderly

When may the Department order a suspension of admissions?

The Department may order a suspension of new admissions for a Residential Care Facility for the Elderly (RCFE) when

- a facility is cited for a deficiency that presents a direct and immediate risk to the health, safety, or personal rights of a resident of the facility and the licensee does not correct the deficiency immediately, or
- a facility has not paid a civil penalty (or penalties) assessed by the Department after the facility’s appeal rights have been exhausted.

Authority: Health and Safety Code (HSC), section 1569.545. California Code of Regulations (CCR), Title 22, Section 87764(a).

How is a licensee notified of a suspension of admissions?

Licensees of RCFEs shall be notified of the Order of Suspension of New Admissions by personal delivery to the licensee at the facility site.

If the licensee is not present, the notice shall be left with a person designated in the facility file to accept licensing reports. A copy of the notice shall also be mailed to the licensee.

Important! If the licensee or designated person refuses to accept the notice, a notation of the refusal shall be written on the notice and the notice shall be left at the facility. Under such circumstances, a copy of the notice, which includes a notation of the refusal, shall also be mailed to the licensee.

Authority: CCR, Title 22, Section 87764(b).

Continued on next page

3-2661: Suspension of New Admissions at Residential Care Facilities for the Elderly, Continued

Notice of order of suspension of admissions

The Notice of the Order of Suspension of New Admissions for an RCFE must include all of the following components:

- Citation of statutes and regulations alleged to be violated.
- The date the order is effective.
- Terms of the order, including plan of correction for any deficiency cited.
- (If the suspension is due to a direct and immediate risk to health, safety, or personal rights of a resident) a factual description of the nature of the deficiency fully stating the manner in which the deficiency presents a direct and immediate risk to the health, safety, or personal rights of a resident of the facility.
- (If the suspension is due to failure to pay civil penalties) a factual description of the failure to pay the assessed fine and exhaustion of the administrative review process specified in HSC, section 1569.49.
- Signature of the Program Administrator.
- Full text of the appeal process specified in CCR, Section 87765.

Authority: CCR, Title 22, Section 87764(c).

Posting requirement for an ordered suspension of admissions

An RCFE must post a copy of the Notice of the Order of Suspension of New Admissions in a conspicuous location in the facility immediately upon service of the notice.

Authority: CCR, Title 22, Section 87764(d).

When does an ordered suspension of admissions take effect?

The order of the Department imposing the suspension of new admissions is effective **immediately** upon notice. The RCFE shall **not** admit new residents while the suspension is in effect.

Note: For purposes of this section, any admission agreement signed prior to the effective date of the order of suspension of new admissions is not considered a new admission.

Authority: CCR, Title 22, Section 87764(e).

Continued on next page

3-2661: Suspension of New Admissions at Residential Care Facilities for the Elderly, Continued

If suspension of admissions is due to immediate risk to persons in care

When new admissions are ordered suspended at a RCFE due to a direct and immediate risk to the health, safety, or personal rights of a resident, the suspension shall remain in effect until the facility has demonstrated to the Department that **all** deficiencies identified in the order have been corrected.

Note: If the facility does not demonstrate to the Department the correction of all deficiencies identified in the notice, the Department shall conduct a follow-up visit to determine compliance within ten business days following the latest date of correction specified in the notice.

Authority: CCR, Title 22, Section 87764(f) and (f)(1).

If suspension of admissions is due to failure to pay civil penalties

For an RCFE in which new admissions are suspended for failure to pay a civil penalty (or penalties), the suspension of new admissions shall remain in effect until the Department determines that the facility has paid the applicable civil penalty (or penalties) assessed by the Department.

When formal payment arrangements have been made with the Department, the suspension may be lifted during the period of payment compliance but otherwise reinstated for lack of compliance with payment arrangements.

Authority: CCR, Title 22, Section 87764(f)(2).

Notification of removal of suspension of admissions

Once the Department has determined that the violation(s) has been corrected and/or fine(s) has been paid, the Department shall notify the licensee immediately, but no later than two business days following the determination, of the order to remove the suspension of new admissions.

Authority: CCR, Title 22, Section 87764(g).

Continued on next page

3-2661: Suspension of New Admissions at Residential Care Facilities for the Elderly, Continued

If an order of suspension of admissions is violated

The Department may impose a Temporary Suspension Order if the licensee of a RCFE violates the Order of Suspension of New Admissions by admitting any new resident while the order is in effect.

Authority: HSC, section 1569.50.

Appealing the order of suspension of admissions

A licensee of an RCFE, or their representative, may appeal the decision of the Department to suspend new admissions by requesting, in writing, a review of the Order of Suspension of New Admissions within ten business days of receipt of the order.

Authority: CCR, Title 22, Section 87765(a).

For more information on appealing an order of suspension of new admissions, see CCR, Title 22, Section 87765.

3-2662: Child Abuse Central Index Cases

Processing a CACI complaint case

When a complaint case involves the Child Abuse Central Index (CACI), it is either

- cleared by the Care Provider Management Bureau (CPMB), or
- referred to the Regional Office (RO).

The table below provides a decision-making guideline upon intake of a complaint.

If ...	Then ...
the facts in a CACI case do not support an allegation(s) of abuse	the Background Information Review Section at CPMB will clear the case.
the facts in a CACI case support an allegation(s) of abuse	the case is referred to the RO for investigation.

Documenting a CACI case

When allegations of abuse are confirmed, the Licensing Program Analyst (LPA) and the CPMB must follow the steps in the table below to document a CACI case.

Step	Action
1	The RO provides a recommendation of a possible CACI match investigation.
2	The LPA conducts a Live Scan fingerprint test for the individual.
3	The LPA forwards the completed Live Scan results and any supporting documentation to: Care Provider Management Bureau 744 P Street, MS T9-15-62 Sacramento, CA 95814
4	CPMB enters the information from the LPA into the Caregiver Background Check System.

Continued on next page

3-2662: Child Abuse Central Index Cases, Continued

When to contact the legal division in a CACI complaint case

The RO must consult with the assigned attorney from the Legal Division if the RO has questions about

- a CACI possible match, and/or
- whether legal action is appropriate.

Important! All RO employee exclusions require Legal Division approval.

3-2663: Temporary Suspension Orders

What is a Temporary Suspension Order?

A Temporary Suspension Order (TSO) is an order issued by the Deputy Director for Community Care Licensing Division (CCLD) which suspends a license prior to a hearing. A TSO is issued

- when imminent danger exists, and
- to protect persons in care at a facility from
 - physical or mental abuse
 - abandonment, or
 - any other substantial threat to health and safety.

Note: In cases when the Department seeks revocation of the operating license, the TSO must be accompanied by a Statement of Issues or an Accusation.

Who may issue a TSO?

A local Regional Office may not order a licensed facility to stop operating. Only the CCLD Deputy Director, or someone authorized to act in their stead, may issue a TSO.

Additional information on TSOs

For more information on procedures for a TSO, see Reference Material for Enforcement Actions.

3-2664: Appeals

If the determination is appealed

A licensee always has the right to appeal the Department's determination of any allegation.

For more information on appeals, see Reference Material for Enforcement Actions.

Appeal of an ordered suspension of admissions at an RCFE

The licensee of a Residential Care Facility for the Elderly (RCFE), or their representative, may appeal the decision of the Department to suspend new admissions at the facility by requesting, in writing, a review of the Order of Suspension of New Admissions within ten business days of receipt of the order.

Authority: California Code of Regulations, Section 87765(a).

For more information on appeal of an order of suspension of new admissions, see California Code of Regulations, Title 22, Section 87765.

Part 4

Finalizing the Complaint

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Chapter 7

Post-Inspection Notification and Closing the Complaint

Overview

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3-2700: Investigation Notifications and Follow-Up

Overview

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3-2701: Procedures for Return Inspections

Disclosing allegations of abuse at a return inspection

Important! The Licensing Program Analyst (LPA) **must not** disclose allegations involving abuse when conducting an on-site inspection of a facility involved in a complaint. Disclosing allegations of abuse may put the health and safety of persons in care at risk.

At a return inspection, the LPA may only notify the licensee of the

- complaint allegations
- investigation findings, and
- final determination of allegations (if a determination has been made).

No return inspection when a complaint is unfounded

A return inspection in an investigation is unnecessary when all allegations in the complaint are determined to be unfounded, because there is

- no action taken by the Department against the licensee, and
- there is no need for further on-site inspection in the case.

In these cases, the completed Complaint Investigation Report (LIC 9099) may be mailed to the licensee in lieu of an inspection.

Note: It is not required that the licensee sign the completed LIC 9099 when all allegations are determined to be unfounded.

Following up with the licensee in an investigation

The LPA is responsible for timely follow-up to ensure that a cited facility has completed the Plan of Correction.

For more information on completing a Plan of Correction, see Reference Material for Documentation, 3-3400: Plan of Correction, and 3-3450: Clearing the Deficiency.

Continued on next page

3-2701: Procedures for Return Inspections, Continued

Exceptions to a return inspection

The following actions make a return inspection unnecessary if initiated within one month of substantiating the allegation.

Action	Purpose	Does the action require a return inspection?
Service of Temporary Suspension Order (TSO) and Accusation	Suspend the license and temporarily close the facility.	Yes, within 30 days after the effective date of the TSO to ensure that the facility is nonoperational unless the department previously has verified that the facility is nonoperational. Authority: Health and Safety Code (HSC), section 1550.7(a).
Service of Accusation	Revoke an existing license.	Yes, within 30 days after the effective date of the revocation to ensure that the facility is nonoperational unless the department previously has verified that the facility is nonoperational. Authority: HSC, section 1550.7(b).
Statement of Issues	Deny an application.	Not required if served within one month of substantiating the allegation.
Notice to Foster Family Agency	Decertify a Certified Family Home.	Not required if served within one month of substantiating the allegation.
Noncompliance Conference	Initiate the disciplinary action process for cases not referred to the Legal Division for Administrative Action.	No.

3-2702: Notifying the Licensee of the Determination

Presenting the determination to the licensee

The Licensing Program Analyst (LPA) must confer with the Licensing Program Manager (LPM) for guidance in presenting the findings, determination, and proposed course of action to the licensee when all data and documents have been collected.

For more information, see Reference Material for Enforcement Actions.

Communication of findings and determination in Priority 1 or 2 complaint cases

Important! For Priority 1 or 2 complaints, whether the Investigations Branch Investigator or the investigating LPA – or both – conducted the investigation, the LPA must **not** submit any investigation findings to either the licensee or the complainant without first discussing the findings with the LPM.

Once a determination has been made for each allegation in consultation with the LPM, the LPA must **first** inform the licensee of the determination prior to notifying the complainant.

Notifying the licensee when a complaint is unfounded

When a complaint is determined to be **unfounded**, the LPA shall notify the licensee, in writing. The completed Complaint Investigation Report (LIC 9099) for the case is provided to the licensee.

Notifying the licensee of substantiated Priority 1 or 2 complaints

When notifying the licensee of substantiated allegations of physical or sexual abuse, the following actions are an acceptable substitute for a return on-site inspection:

- service of a Temporary Suspension Order and Accusation
- service of an Accusation to revoke the license
- service of a Statement of Issues to deny a license application
- a Noncompliance Conference, or
- notice to a Foster Family Agency to decertify a Certified Family Home.

Important! If no return inspection is made in a substantiated case, the names and phone numbers of persons in care and their representatives must have been obtained during the investigation process. This is standard procedure for any action by the Department which will require the notification and orderly relocation of persons in care from the facility.

For more information on relocation procedures, see Reference Material for Enforcement Actions.

Continued on next page

3-2702: Notifying the Licensee of the Determination, Continued

Selecting a course of action when a complaint is substantiated

When a facility is determined to be noncompliant, the LPA must fill out parts A and B of a Facility Compliance Plan (LIC 9112) and discuss the case with the LPM. Based on the selected course of action, the LPA may

- schedule an informal meeting with the licensee and LPM
- schedule a **Noncompliance Conference** with the licensee and the Regional Manager (RM), or
- refer the case to the RM, who may, on the advice of the Licensing Office’s Legal Consultant, move to take Administrative Action against the facility, without any of the forgoing intermediate steps.

Note: Each case is unique and may require licensing staff to carefully consider how best to act in the interest of persons in care. For more information on this process, see Reference Material for Enforcement Actions.

When to schedule a Noncompliance Conference

When a case merits decisive action but has not been referred to the Legal Division for Administrative Action (revocation of license is not imminent), a **Noncompliance Conference** is scheduled.

In the Noncompliance Conference, the RM communicates to the licensee that

- a serious violation has been substantiated
- this is the last opportunity to come into compliance, and
- Community Care Licensing Division may still recommend Administrative Action against the licensee.

Complaints which do not result in Administrative Action

When a return on-site inspection is made, but the complaint case does not result in the Department taking Administrative Action, a copy of the updated LIC 9099, containing the complaint details and resolution must be provided to the licensee during the return inspection.

Note: For resolution codes used on the LIC 9099 form, see 3-2013: Definitions, and 3-2607: Is the Complaint Unfounded, Unsubstantiated, or Substantiated?

Continued on next page

3-2702: Notifying the Licensee of the Determination, Continued

Concluding a complaint investigation with an on-site inspection

When a routine complaint investigation is concluded, an LIC 9099 is issued at the conclusion of the return on-site inspection.

Note: For complaints alleging abuse, if the licensee was not present for the return inspection, the LPA must send a copy of the LIC 9099 to the licensee by certified mail within ten calendar days of the inspection. The envelope must be marked “Personal and Confidential.”

For more information, see 3-2504: LIC 9099 Process and Procedure.

Concluding the on-site inspection

At the conclusion of a return on-site inspection, the LPA must ensure the licensee’s Plan of Correction

- is measurable and verifiable, and
- specifies acceptable evidence to establish that a deficiency has been corrected.

The LIC 9099 must document all violations that, if not immediately corrected, pose a direct and immediate risk to health, safety, or personal rights of persons in care. Consistent with provisions in Health and Safety Code (HSC) sections 1534.1(c) and 1596.818(b), documentation of the investigation’s conclusion is then placed in the facility file.

Authority: HSC, sections 1534.1, 1568.0715, 1569.351, 1596.866, and 1596.8662.

If the licensee cannot be located

The LPA must exhaust efforts to locate and contact licensees (such as sending mail to the last known address) **before** an LIC 9099 is completed without the licensee’s signature. If the LPA cannot locate the licensee, and a complaint determination cannot be made, then the case must be elevated to the LPM.

Note: If the licensee cannot be located, the LPA must document the outcome of the investigation (for example, unable to investigate, no jurisdiction) on the Complaint Report (LIC 802).

3-2703: Notification by the Licensee Following Substantiated Complaints in Community Care Facilities

Special notification procedures for community care facilities

The procedures in this section pertain specifically to notification of licensees of community care facilities when a complaint has been substantiated.

Except where noted otherwise, the procedures in this section apply in addition to the procedures described in 3-2682: Notifying the Licensee of the Determination.

Notification requirements for community care facility licensees

When a complaint is substantiated, the licensee of a community care facility is required, as applicable, to send copies of the complaint report by certified mail to

- board members
- parents and legal guardians
- conservators
- rights advocates for persons in care, and
- placement agencies.

Authority: Health and Safety Code (HSC), section 1538.5(b).

Licensee notification requirement time limits

In certain types of cases, the required time limit for licensees to send copies of substantiated complaints to specified recipients must be stated on the licensee’s copy of the Complaint Investigation Report (LIC 9099), and will vary based on the severity of the substantiated complaint, as shown in the table below.

Substantiated Complaint	Licensee Must Send
Involves physical or sexual abuse	Copies of the report within three days of receiving the LIC 9099. Authority: HSC, section 1538.5(b)(1).
A violation for which the facility has been cited at least three times in the last 12 months	Copies of the report within five days of receiving the third (or higher) citation for the same violation. Authority: HSC, section 1538.5(b)(2).

These requirements do **not** apply to Adult Day Programs or Foster Family Homes.

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3-2703: Notification by the Licensee Following Substantiated Complaints in Community Care Facilities, Continued

Requirement for certified mail receipts of reports sent by the licensee

When a complaint has been substantiated at a community care facility, the LIC 9099 must inform the licensee that there is a statutory requirement to retain certified mail receipts for one year as written proof that the copies of the substantiated complaint reports were sent to specified recipients, as required, and that failure to comply with this requirement is subject to civil penalties.

Citing the licensee when notification is deficient

The table below shows the Licensing Program Analyst (LPA) how to cite the HSC when a licensee of a community care facility does not send and/or document sending required notification to the authorized representative of a person in care following substantiation of a complaint.

If ...	Then ...
the licensee does not send a copy of the LIC 9099 to the authorized representative of the person in care	the LPA may cite the licensee under HSC, section 1538.5(b)(1) or 1538.5(b)(2).
the licensee does not retain written proof that the LIC 9099 was sent to the authorized representative of the person in care	the LPA may cite the licensee under HSC, section 1538.5(c).

Note: The licensee **must** send the required notification to the authorized representative, even if the licensee has appealed the determination. The licensee may, however, also provide subsequent notice to authorized representatives if the licensee’s appeal is favorable.

3-2704: Notifying the Complainant Following the Investigation

Notification to the complainant following an investigation

It is Department policy that, whenever possible, the Licensing Program Analyst (LPA) must notify the complainant of the determination using the Complaint Determination Notification (LIC 856B, LIC 856C, and LIC 856D) forms, including in the event that the determination changes as the result of an appeal. This notification may be sent to the complainant via email or postal service.

Note: The LPA notifies the complainant of the determination using the method specified by the complainant (unless the complainant has not provided any contact information). For example, if the only method available is a telephone number, the LPA will notify the complainant of the determination by phone.

Important! The LPA must also document any facts about contacting the complainant on the Complaint Report (LIC 802), including if they choose to be anonymous, or are unable to be contacted directly.

Authority: Health and Safety Code (HSC), sections 1538(c)(1), 1568.071(c), 1569.35(d), and 1596.853(c).

Time limitation of notification in RCFE investigations

Important! Upon completing an investigation of a Residential Care Facility for the Elderly (RCFE), the LPA must notify the complainant of the determination, in writing, within **ten business days**. The LPA shall use the LIC 856B, LIC 856C, and LIC 856D to fulfill this requirement.

Authority: HSC, section 1569.35(d).

Complainants may request a copy of the LIC 9099

If the Complaint Investigation Report (LIC 9099) has been filed publicly, the complainant may request a copy. Complaint investigation reports are uploaded to the transparency website the Sunday following the day the determination is entered into the Department’s database.

What is communicated to the complainant after the investigation?

When an investigation has been completed, the LPA communicates to the complainant the results of the investigation. This includes the evidence used to make the determination, if the complainant requests.

Continued on next page

3-2704: Notifying the Complainant Following the Investigation, Continued

How is the determination communicated to the complainant?

When a complainant has provided either a physical mailing address or an email address for follow-up contact, the LIC 856 series of forms are used for communication of the determination, as follows:

- Allegations in the complaint which are determined to be **substantiated** are communicated using a Complaint Determination Notification — Substantiated (LIC 856B) form.
- Allegations in the complaint which are determined to be **unsubstantiated** are communicated using a Complaint Determination Notification — Unsubstantiated (LIC 856C) form.
- Allegations in the complaint which are determined to be **unfounded** are communicated using a Complaint Determination Notification — Unfounded (LIC 856D) form.

When a complainant has provided only a phone number for follow-up contact, the LPA must report the determination(s) to the complainant over the phone.

When the complainant cannot be located

Procedures for the LPA when the complainant cannot be reached for notification following an investigation are shown in the table below.

If ...	Then ...
the complaint was received by mail or email without a contact phone number	the LPA documents the complaint response on the appropriate LIC 856 series form(s) and mails (or emails, if no mailing address is available) a copy of the completed LIC 856 series form(s) to the complainant.
the complaint was reported with a phone number but the complainant cannot be reached	the LPA documents the complaint response on the appropriate LIC 856 series form(s) and documents the effort to contact the complainant on the LIC 802.

Important! Licensees are **never** sent communications intended for the complainant, including any LIC 856 series form letters.

3-2705: Notification Requirements for Substantiated Complaints

Notification of the local Long-Term Care Ombudsman following an RCFE investigation

At the completion of a complaint investigation of a Residential Care Facility for the Elderly (RCFE), the Department must notify the local Long-Term Care Ombudsman of the availability of any related public Community Care Licensing Division reports on the Department’s transparency website.
Complaint reports are also available for review on-site at the RCFE.

Notifying placement agencies and State Long-Term Care Ombudsman

The Department must notify affected placement agencies and the Office of the State Long-Term care Ombudsman whenever a complaint posing a serious threat to the health and safety of any person in care

- has been substantiated, and
- the violation
 - results in the assessment of any penalty, or
 - causes an accusation to be filed for the revocation of a license.

Authority: Health and Safety Code (HSC), sections 1566.7 and 1569.335(b).

Updating the notification to placement agencies (RCFE only)

When a complaint is substantiated at an RCFE, the Department’s notice to placement agencies must be updated **monthly** for the following 24-month period. This notification must include the

- name and location of the facility
- amount of the fine
- nature of the violation
- corrective action taken
- status of the revocation, and
- resolution of the complaint.

Authority: HSC, section 1569.335(c)(3).

Continued on next page

3-2705: Notification Requirements for Substantiated Complaints, Continued

Transmittal of inspection reports to stakeholders (RCFE only)

Not less than 30 days before the expiration date of the license for an RCFE, the Department must transmit a copy of all notices sent to the facility by the Department during the term of the current license due to a substantiated complaint.

These transmitted notices are sent to the

- state ombudsman in the Department of Aging, and
- the local ombudsman (if one exists).

A copy of the notices transmitted and proof of the transmittal must be available to the public for a period of one year following transmission.

Authority: HSC, section 1569.36(a).

Transmittal of inspection reports to stakeholders (community care facilities)

The Department may transmit a copy of all inspection reports issued to a community care facility by the Department during the past year because of a substantiated complaint regarding

- abuse
- neglect
- food
- sanitation
- incidental medical care, and/or
- supervision.

The Department may transmit a copy of these reports, as designated in the placement agreement for each person in care, to

- advocates for persons in care
- parents or legal guardians
- conservators
- placement agencies, and
- board members.

A copy of the notices transmitted and the proof of the transmittal must be available to the public for a period of one year following transmission.

Authority: HSC, section 1538.5(a)(1).

Continued on next page

3-2705: Notification Requirements for Substantiated Complaints, Continued

Transmittal of inspection reports to counties

The Department may transmit copies of the inspection reports for group homes or short-term residential therapeutic programs to their respective county, if requested by that county.

Authority: HSC, section 1538.5(a)(2).

Notifying the placement agency of serious deficiencies (community care facilities)

The Department must provide an immediate notice to the placement agency within **five working days** whenever it is discovered that a community care facility

- has an employee of the facility with a criminal record, and/or
- has experienced a serious incident which resulted in physical or emotional trauma to a person in care.

Authority: HSC, sections 1522 and 1566.7.

Consultation of licensing staff prior to informing the licensee of investigation results

The Licensing Program Analyst (LPA) must consult with the Licensing Program Manager (LPM) to decide how the licensee will be informed of the results of an investigation.

Note: The LPA **must** review Priority 1 and 2 complaints with the LPM prior to making a determination.

Seeking input in a review of Group Home and STRTP effectiveness

Periodically, the Department must review the record of substantiated complaints in a Group Home or Short-Term Residential Therapeutic Program (STRTP) facility to determine whether the nature, number, and severity of complaint incidents at the facility forms a basis for concern regarding the operation’s effectiveness and efficiency.

When the Department determines that there is cause for concern in a particular facility, the Department may request recommendations on what action, if any, the Department should take with regard to the licensing status of the facility from the

- county in which the Group Home or STRTP is located, and
- placement agencies in other counties using the Group Home or STRTP.

Authority: HSC, section 1538.6.

3-2750: Closing the Complaint

Overview

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3-2751: Public and Confidential File Procedures

Report filing procedures by facility type

The table below shows procedures for filing the completed Complaint Investigation Report (LIC 9099) and supporting documentation, based on the facility type and requirements in statute.

Facility Type	LIC 9099 Filing Procedures
Community Care Facilities	<ul style="list-style-type: none"> • Filed in the public section of the facility file only when the determination is substantiated or unsubstantiated. • Filed in the confidential section of the facility file when the determination is unfounded. <p>Authority: Health and Safety Code (HSC), sections 1534(a)(5) and 1538(c)(2).</p>
Child Care Facilities	<ul style="list-style-type: none"> • Filed in the public section of the facility file only when the determination is substantiated or unsubstantiated. • Filed in the confidential section of the facility file when the determination is unfounded. <p>Authority: HSC, sections 1596.853(c) and 1596.859.</p>
Residential Care Facilities for the Elderly	<p>Filed in the public section of the facility file.</p> <p>Authority: HSC, section 1569.33(g)(1).</p>
Residential Care Facilities for the Chronically Ill	<p>Filed in the public section of the facility file.</p> <p>Authority: HSC, section 1568.07(b)(5).</p>

Confidentiality of CACI information

Child Abuse Central Index (CACI) information is highly sensitive. Therefore, care must be taken when documenting the CACI investigation to ensure confidentiality is maintained. After a CACI investigation is complete, all CACI documentation must be filed in the **confidential** section of the facility file, regardless of the determination in the case.

Filing the employee exclusion letter in CACI cases

In CACI cases, the denial or Employee Exclusion letter is a public document and is filed in the **public** section of the facility file.

Important! The CACI investigation documentation is confidential and must be placed in the **confidential** section of the facility file.

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3-2751: Public and Confidential Filing Procedures, Continued

CACI filing instructions when no legal action merited

At the end of a CACI investigation in which the Department decides legal action is not merited, the Licensing Program Analyst notifies the licensee by letter that no legal action will be taken by the Department, and files a copy of this letter in the **confidential** section of the facility file.

Filing the LIC 9099 in RCFE cases

When an LIC 9099 is completed for an investigation at a Residential Care Facility for the Elderly (RCFE), it is filed in the **public** section of the facility file, regardless of the determination in the case.

For more information on reporting requirements at RCFEs, see HSC, section 1569.33(g).

How are investigation findings approved?

When the Licensing Program Analyst (LPA) has completed all necessary steps in a complaint investigation, the Licensing Program Manager approves the complaint investigation, findings and determination of the allegations by signing the Complaint Report (LIC 802).

The signed and completed LIC 802 is filed in the facility file as a **public** document, except in cases where statute dictates otherwise (based on confidentiality or facility type).

When is documentation public?

The table below shows whether investigation documentation is filed in the public or confidential sections of the facility file, based on the complaint determination and the type of facility involved in the complaint.

If ...	Then ...
the complaint involves any facility type and the determination is substantiated or unsubstantiated	the filed documentation is public (unless it is statutorily required to be confidential).
the complaint involves an RCFE or a Residential Care Facility for the Chronically Ill and the determination is unfounded	the filed documentation is public (unless it is statutorily required to be confidential).
the complaint involves a community care facility or child care facility and the determination is unfounded	the filed documentation is confidential .

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3-2751: Public and Confidential File Procedures, Continued

If an allegation requires further investigation

When an allegation requires *further investigation*, the associated complaint documentation is filed in the **confidential** portion of the facility file until a determination of substantiated, unsubstantiated, or unfounded is reached.

Properly completing a complaint investigation

Important! Upon completion of a complaint investigation, the LIC 9099 cannot be mailed to the licensee in lieu of a return inspection. The LPA must complete the case using one of the methods described in Reference Material for Documentation, 3-3400: Plan of Correction, and/or 3-3450: Clearing the Deficiency.

For more information, see 3-2752: Process to Close a Complaint.

3-2752: Process to Close a Complaint

LPM Checklist for Complaint Review

Utilizing the LPM Checklist for Complaint Review (LIC 9229) the Licensing Program Manager (LPM) must

- review the complaint documentation
- ensure there was a thorough investigation
- ensure the determination(s) is appropriate
- make certain that post-investigation contact with the complainant has been followed through with as appropriate, and
- ensure any related citations, Plans of Correction, or civil penalty assessments are appropriate.

Important! An LPM must review Priority 1 and 2 complaints with the Licensing Program Analyst (LPA) prior to issuing findings.

Post-investigation process

The table below shows the process for closing a complaint investigation by the LPA and LPM.

Step	Action
1	When the investigation has been completed, the LPA indicates the determination for each allegation on the Complaint Report (LIC 802) and fills in the remaining sections of the form.
2	The LPA delivers the findings and determination to the licensee and the complainant. Note: Documentation provided to the licensee must include any citations, Plans of Correction, and civil penalties (if applicable).
3	The LPA Checklist Complaint Review (LIC 9230) is used, and all unfinished documentation related to the complaint investigation is completed as soon as possible after informing the licensee and the complainant of the findings and determination.
4	The LPA must ensure that any information gathered from placement agencies and other professionals for program review is included when routing to the LPM for sign-off.
5	The LPM ensures the complaint is ready for sign-off by using the LPM Checklist for Complaint Review (LIC 9229).
6	The LPM signs off on the complaint.
7	All final documents are filed in the facility file (and then uploaded to the transparency website, as appropriate).