



Department of Children and Family Services Policy and Procedure Guide

Division No: 3 – Child Welfare

Chapter No: 9 – Licensing

Item No: 1 – Licensing Complaint Process

(REPLACES: COMPLAINTS – FAMILY CARE HOMES PPG 31-8-5 ISSUE DATED 1/99)

Effective Date: 2/27/2004

POLICY: The Fresno County licensing unit within the Department of Children and Family Services will investigate all complaints received regarding licensed Fresno County foster family homes.

PURPOSE: To establish processes that assure that all complaints received about County foster family homes are investigated and resolved in an appropriate and timely manner.

REFERENCE: Community Care Licensing Division (CCLD) Evaluators Manual

DEFINITIONS: Forms referenced in this PPG are:
LIC 802 Complaint Report
LIC 809 Facility Evaluation Report
LIC 812 Detail Supportive Information
LIC 856 Complaint Response
LIC 957 Complaint Control Log
LIC 9099 Complaint Investigation Report

PROCEDURE:

I. Accepting Complaints

- A. Complaints may be received by telephone, letter or in person.
- B. The complaint recipient must assure the complainant that the reporting party (RP) identity will remain confidential unless the RP chooses to waive this right. This protection also applies to organizations. The complaint recipient must advise the RP that he/she can receive the results of an investigation by providing a name and phone number, and may request a copy of the *LIC9099*, as long as it is not "unfounded". If it is marked "unfounded", the document becomes confidential.

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- C. *The Complaint Response (LIC856)* must be completed and page one mailed to the RP for complaints, which are received, by mail. When the complaint is received by telephone or in person, the complaint recipient must advise the RP that he/she will be notified of the findings. If it is not possible to make phone contact, page 2 of the *LIC856* can be mailed. *LIC856* is a confidential document.

II. Recording the Complaint

The responding evaluator must:

- A. Use a *Complaint Form (LIC802)*. The *LIC802* is a confidential document. It must state who, what, when, where, why, and how. If the complaint is received by mail, attach it to the *LIC 802*.
- B. Provide the basic allegations of the complaint in the summary.
- C. Not write a complaint unless a licensing violation is alleged.
- D. Obtain as much information as possible: dates, times, names, locations, etc.
- D. Use the front of the *LIC802* for a brief description of the specific allegation. Document on the back additional pertinent information in the top section called “Details of Allegations”. If more space is needed, use form *LIC812*.

III. Establishing Controls

Visits involving any death of a child must be made within two business days. All other investigation visits must be made within 10 calendar days of receipt of the complaint. The visit may be delayed beyond 10 days only with the approval of an authorized supervisor.

IV. Planning the Investigation

- A. Upon receipt of the complaint, the evaluator identifies the extent of the problem and the relevant laws and regulations.
- B. As part of the initial planning the evaluator reviews the file for past complaints, deficiencies previously cited, compliance conferences already conducted and/or any conditions of probation.
- C. Before the visit, the evaluator collects as much information regarding the allegation as possible. This information may be from documents or contacts with others with knowledge of the issues. The evaluator is not, however, to delay the 10-day or expedited visit (if one is needed), while waiting for additional information if it can be collected later.

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- D. The evaluator determines if other agencies may have jurisdiction as well and contacts them to discuss the allegations if appropriate.
 - E. If the police are also investigating, the evaluator contacts them before making the visit. Law enforcement has the authority to delay a 10-day visit if it appears that licensing contact will interfere with legal investigation.
 - E. If more information is needed from the RP, the evaluator documents that need in the Pre-Investigation Contact section on the back of the *LIC802*. If more room is needed, the evaluator uses form *LIC812*.
 - F. Complaints are not investigated if the motivation is harassment. Even if the motive is harassment, the evaluator should complete a *LIC802* and route it to the supervisor who determines whether a visit needs to be made.
- V. Entrance Interview
- A. Complaint visits are always unannounced.
 - B. Before entering, evaluators must identify themselves.
 - C. Once inside, evaluators should explain the purpose of the visit. With the exception of allegations of abuse, all other specific allegations are to be shared with the caregiver before departing from the initial visit. Details however are not required at this stage and can be discussed at the conclusion of the investigation.
 - D. Evaluators should explain that the law requires that all complaints be investigated, and briefly outline what will be done while in the home and that before leaving, findings, if available will be discussed and if deficiencies are found, they will be described on the *Licensing Report*.
- VI. Documenting the Investigation
- A. The official form for documenting a complaint is the *Complaint Investigation Report (LIC9099)*.
 - B. With exception of “unfounded” complaints, the *LIC9099* is a public record and shall not contain names of children.
 - C. The evaluator completes the LIC 9099 after the home inspection, the home, records review, and interviews, and prior to departing. In special circumstances, it may be necessary to leave, write the *LIC9099* and return to present it and obtain a Plan of Correction (POC).
 - D. Except where the complaint is determined as unfounded, the evaluator must not mail the *LIC9099* to the caregiver in lieu of a return visit.

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- E. The *LIC9099* includes identification of who conducted the investigation, the purpose of the visit, which was contacted at the home, followed by the complaint allegation and a summary of the investigation findings. The investigative findings should be specific to the allegations, and as concise and brief as possible. The report must conclude with a finding: Substantiated, Inconclusive, or Unfounded.
- F. Deficiencies are to be cited on a separate *LIC809*.
- G. Substantiated – The allegation is valid because the preponderance of the evidence (POTE) standard has been met. LIC 9099 with substantiated findings and the LIC 809s attached to them are public documents. Per the Evaluator’s Manual Section 3-2603, POTE means that 51% of the evidence supports a substantiated finding that the violation occurred. Put another way, POTE means the body of evidence has more convincing force than the evidence opposed to it, i.e. a review of all the evidence reveals that it is more likely than not that the violation occurred. If a complaint is substantiated the facility must be cited. This item is important to remember because it requires that the person who records the complaint on the *LIC802* to document the allegation in such a manner that it relate specifically to a licensing regulation.
- H. Inconclusive – Although the allegation may have happened or is valid, the preponderance does not prove that the alleged violation occurred. LIC 9099’s with an inconclusive finding is considered a public document.
- I. Unfounded – The allegation is false, could not have happened and/or is without reasonable basis. All documentation in reference to an unfounded complaint is confidential information. The *LIC9099* is designed to accommodate one allegation per form. However, the evaluator may document more than one allegation per form provided space is available and the findings are the same for each allegation (i.e. unfounded, substantiated, inconclusive). Also, and as an example, it is not appropriate to combine all buildings and grounds allegations under one allegation. If the complaint is for broken glass, dirty floors, and dirty restrooms, these allegations must be treated as separate allegations and could potentially result in 3 separate *LIC9099*’s.
- J. If an allegation requires further investigation, the *LIC9099* is to be retained in the confidential file until a resolution is reached. If the finding is substantiated or inconclusive, then both *LIC9099*’s go in the public section. If the finding is unfounded, then both are maintained in the confidential section.

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- K. The evaluator should notify the caregivers in writing as soon as possible if the finding is either substantiated or inconclusive. For complaints that are unfounded, licensing staff shall notify the caregiver in writing within 30 days of the finding.
 - L. If licensing staff feel the facts in a complaint alleging physical or sexual abuse require an inconclusive finding, then a California Department of Social Services (CDSS) Legal Consult must be completed prior to the inconclusive finding being delivered.
 - M. In addition to the *LIC9099*'s and *LIC809*'s, the evaluator documents conversations, actions taken and other activity on *LIC812*'s. The evaluator also collects all available pertinent supporting documents such as police reports, CPS reports, medical records, etc.
- VII. Exit Interview
- A. The purpose of the exit interview is to make sure that the caregiver clearly understands what, if anything, is expected of him/her. If there is a need for further investigation, the evaluator should explain that further evaluation and possible follow-up visits are necessary before a decision can be made on findings. In this case, the evaluator should check the box on the LIC 9099 that indicates, "Needs Further Investigation" and give an estimate of time such as 30, 45, 60, or 90 days. The investigation should not exceed 90 days.
 - B. At minimum, the evaluator should discuss each deficiency with the caregiver and the evaluator should obtain a specific POC and due date. The POC should be written on the LIC 809 by the caregiver. If the caregiver refuses or is not able to write a POC, then the evaluator can write it and document the reason why it was completed by the evaluator.
 - C. If the caregiver disagrees with the application of any regulation, the deficiency, the POC or any finding of consequence, he/she may write this disagreement on the *LIC809*. The evaluator should then inform the caregiver of appeal rights and procedures.

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VIII. Clearing the Complaint

After completing the investigation, the evaluator must indicate the resolution code on the front of the *LIC802* for each allegation, complete the remaining sections on the back and sign it. The *LIC802*, *LIC9099*, *LIC809* (if applicable) and all supporting documents and evidence are forwarded to the supervisor for review and *LIC802* sign-off. The Complaint Control Log is updated and the documents are filed appropriately in the case file.

Submitted by: Patti Poulsen, Program Manager

Date: 2/19/04

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Date: 2/19/04

DCFS Director: Gary D. Zomalt

Date: 2/20/04