



TEXAS
Department of Family
and Protective Services



**Child
Protective Services**

Foster and Adoptive Home Background Checks Resource Guide

**Foster or Adoptive
Parent Applicants**

June 2024

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Introduction

Overview

The *Foster and Adoptive Home Background Checks Resource Guide* provides useful information to support Child Protective Services (CPS) staff in effectively performing their job duties. This information includes reference material, procedures, and guidelines that assist CPS staff in effectively performing their job tasks required by Department of Family and Protective Services (DFPS) policy.

This resource guide provides important information on a range of topics for the purpose of assisting and guiding CPS staff to:

- Make essential decisions;
- Develop strategies to address various issues;
- Perform essential procedures;
- Understand important processes; and
- Identify and apply best practices.

It is important to remember the information in this resource guide does not substitute for policy. Policy statements may sometimes be included, but only as references. Any policy appearing in this resource guide will be emphasized and include a link to the actual policy in the CPS Handbook or Texas Administrative Code (TAC) rule.

DFPS policy always takes precedence over any resource guide. DFPS strives to keep both synchronized; however, delays sometimes exist. If questions arise, always follow DFPS policy in the CPS Handbook.

While information in this resource guides is not policy, except where noted, the actions and approaches described here are also not mandates. CPS staff should adapt their performance of critical tasks to the individual needs and circumstances of the children and families with whom they work.

Combined with clear and concise handbook policy, this resource guide should help staff provide a high level of service to children in Texas.



CPS Policy 4222.2

Re-Allowing Placement:

If the caseworker learns of a detailed justification for changing the status of and considering placements in a foster family that is on Disallowed Placement status, the caseworker must elevate this consideration through the regional chain of command to the regional director.

Purpose

The *Foster and Adoptive Home Background Checks Resource Guide* assists CPS Foster and Adoptive Home Development (FAD) staff during an assessment of a potential or active foster or adopt home. It provides guidance on evaluating a person whose background check reveals criminal history or a finding of abuse or neglect.

Background checks are required for the applicants as well as certain household members and visitors of the FAD home. Staff review background check results before verifying or approving the home and every time a background check is done after the initial approval. See [CPS Policy 7411.1](#) and the [CPS Background Checks: FAD Homes and FBI Exigent Checks webpage](#).



CPS Policy 7411.1

*See Required Background
Check Charts.*

1. Time Frames

Initial Checks

A person's initial background check is submitted and received according to the timetable in Figure 1 below.

Figure 1. List of Persons Requiring Background Checks and Timetable for Completion

Required Background Checks: Who and When

- **Prospective foster or adoptive parents:** Before the foster or adoptive home's verification or approval;
- **Non-clients, age 14 years or older, who reside or will reside in a prospective foster or adoptive home:** Before the foster or adoptive home's verification or approval or before the person is residing in the home;
- **Non-client residents who will turn 14 years of age:** Between 90 days before and after a non-client resident turns 14 years old;
- **Regular or frequent visitors:** At the time FAD becomes aware of the person's visits or plans to visit; and
- **Any other person required to have a background check for whom one has not been submitted:** At the time FAD becomes aware of the person's presence.

Checks Required Before Consummating an Adoption

While Child-Care Regulation rules require recurring checks to be conducted every 24 months, criminal history record checks for adoptive parents must be current within 12 months of a petition for adoption.

See [CPS Policy 7421.4](#) and [Family Code Section 162.0085](#).



CPS Policy 7421.4

See Time Frames for Checks Required Before Consummating an Adoption and Family Code, Section 162.0085 Criminal History Report Required.

Time Frame Calculation Example

Figure 2 describes a situation where a time frame calculation is used to determine if an updated criminal history check is needed before consummating an adoption.

Figure 2. An Example of a Time Frame Calculation to Determine the Need for an Updated Criminal History Check

12/15/2024

Potential adoptive
parents criminal
history background
checks run.



11/02/2025

Potential adoptive parents
file adoption petition.
The court orders they obtain
their criminal history records.



Because background
checks were run about
11 months prior to the
adoption petition and the
court order to obtain
criminal history, updated
criminal history record
checks **not required**.



BUT if the adoption
petition was filed
after 12/16/2025,
and the court ordered
the criminal history,
updated criminal
history record checks
would be required.

2. Abuse and Neglect History Checks

Central Registry vs. DFPS History Checks

Historically, FAD staff utilize the Central Registry check letters in conjunction with DFPS history checks in the Criminal Background Check function of IMPACT to satisfy background check requirements for FAD caregivers, frequent and regular visitors, and babysitters.

However, the DFPS history check, with thorough and correct person entry and merging, provides a clear and accurate individual history of involvement with DFPS. The DFPS history check is the only function staff must utilize to meet the requirement for a Texas child abuse and neglect history check.

All FAD staff should cease utilizing the Central Registry Check function in IMPACT and cease uploading the Central Registry Check letters in the FAD case file. Instead, all FAD staff must utilize and complete the DFPS history checks and upload in accordance with the CPS Handbook and Minimum Standards for Child-Placing Agencies.

Checking DFPS Histories

FAD staff must check the DFPS history of each applicant, certain household members, and certain visitors to the home. See [CPS Policy 7400](#).

FAD staff must review each investigation where a person was a principal. The DFPS history may contain investigations related to DFPS CPS and Adult Protective Services (APS), as well as Texas Health and Human Services Commission (HHSC) HHSC Long Term Care Regulatory-Provider Investigations and Residential Child Care Regulation (RCCR) units.

For purposes of this guide, CPS and RCCR history is discussed together and APS history is discussed separately. See [History Check Findings](#) and [Adult Protective Services Findings](#).



CPS Policy 7400

*See **Checking Criminal Records and Abuse and Neglect History** for guidance on background checks for persons living or present in a foster or adoptive home.*

Prior Investigations

If abuse or neglect history results for an applicant, household member, or visitor to the home show the person was the subject of past investigation, the FAD specialist determines whether the person's involvement in the case is one of the following listed in Figure 3.

Figure 3. FAD Determination When a Prior Investigation Exists

Person's Involvement in the Case:

- Bars the person from being present in a verified or approved foster or adoptive home;
- Requires the person undergo a formal risk evaluation; or
- Otherwise raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship.



Caution

Caution must be taken when allowing people with multiple intakes and/or investigations to continue with the verification or approval process or be around children in care.

*FAD staff **must always** meet with the FAD program director regarding these persons.*

Risk Evaluation Determinations

Designated Perpetrator

If a DFPS abuse or neglect history check returns a match with the role of **designated perpetrator (DP)**, but FAD staff wishes to pursue verification or approval of the home despite the finding, the FAD specialist follows the steps for requesting due process. See [Due Process](#), as well as [TAC 745.671](#), and its [associated chart](#).



TAC 745.671

*See **Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings** and its **associated chart**.*

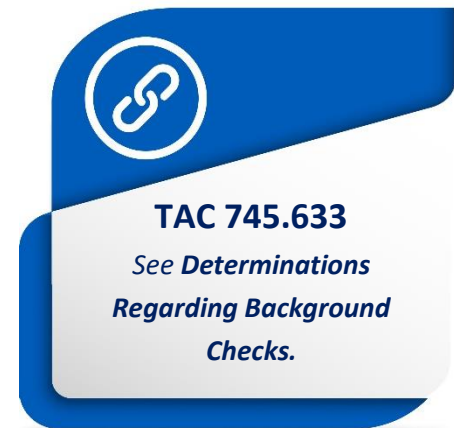
Sustained Perpetrator

When there is an eligible finding for abuse or neglect, licensing rules require the person be a **sustained perpetrator (SP)** before a risk evaluation can be requested and approved. See [Risk Evaluations](#).

Active Investigations

A person who is an **alleged perpetrator (AP)** in a DFPS or HHSC abuse or neglect investigation (i.e., CPS, APS, CCL, or RCCR) that is open at the time of application may not be verified as a foster parent or approved as an adoptive parent or be present in the home until the investigation is complete.

When the investigation is complete, the FAD specialist and supervisor assess the next steps based on the applicable disposition as discussed further in this guide. See [TAC 745.633](#).



Alternative Response

Open AR Case

A person with an open Alternative Response (AR) case is not eligible to be approved as a foster or adoptive parent or be around children in care. However, an exception exists if a prospective family has a longstanding relationship with a child under DFPS conservatorship or the family has already been providing care in their home for a child who is under DFPS conservatorship.

Before FAD approves the person to move through the CPS verification and approval process or be around children in care in the home, the FAD specialist following the steps outlined in Figure 4.

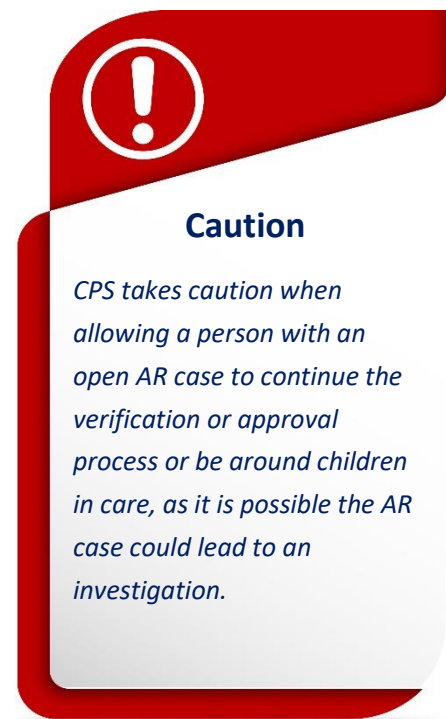
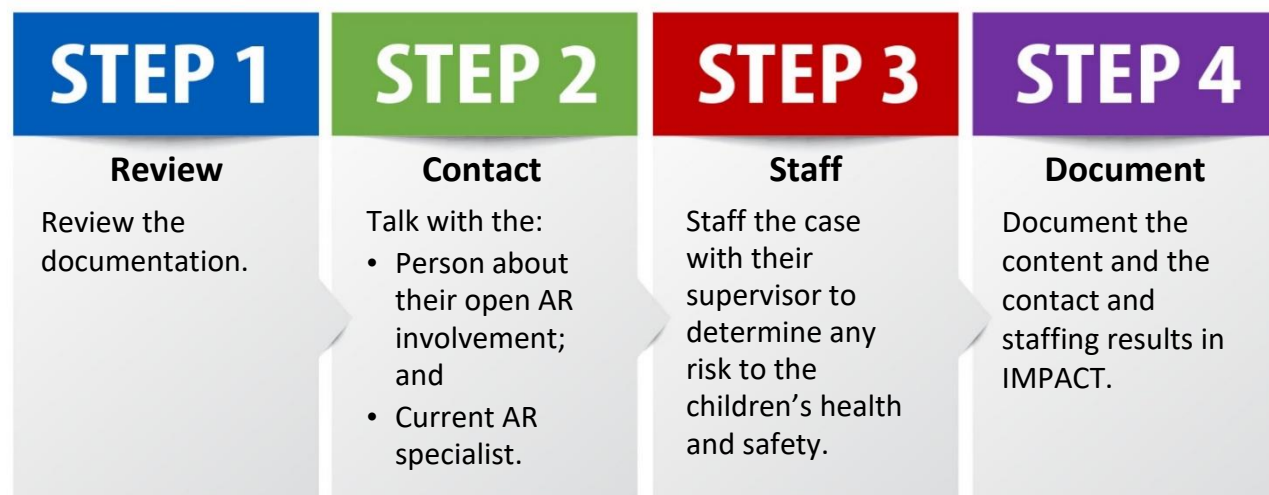


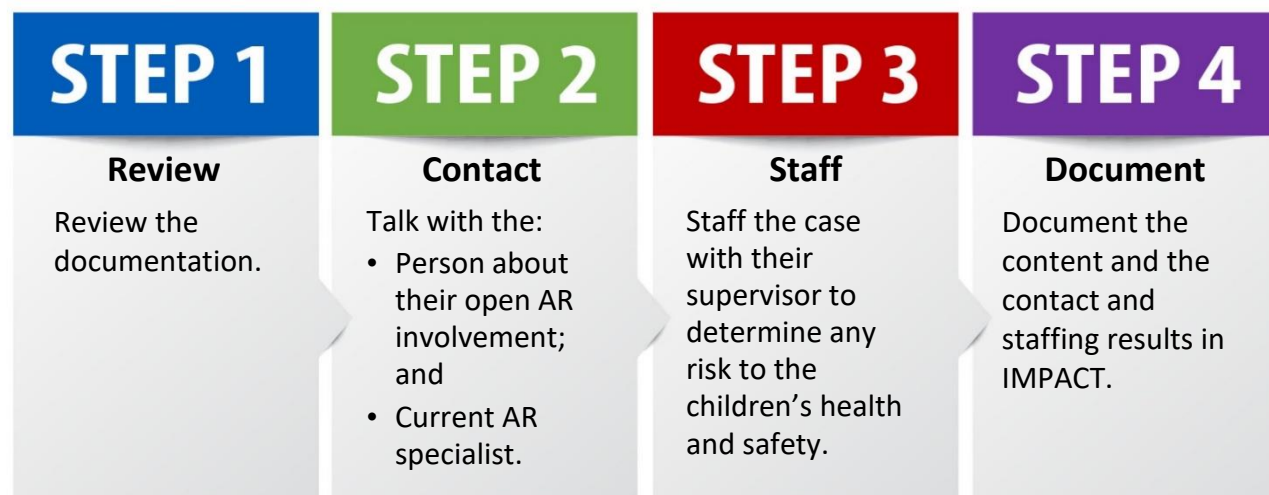
Figure 4. FAD Specialist Steps for Determining Open AR Case Exceptions



Closed AR Case

A person with a closed AR case is eligible to be approved as a foster or adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification and approval process or be around children in care, the FAD specialist follows the steps outlined in Figure 5.

Figure 5. FAD Specialist Steps for Determining Closed AR Case Eligibility



History Check Findings

Reason To Believe

Sexual Abuse, Labor Trafficking, and Sex Trafficking

A person with a reason to believe (RTB) for sexual abuse (SXAB), labor trafficking, or sex trafficking is permanently banned from being:

- A foster or adoptive parent; or
- Around children in care.

The FAD specialist takes the following actions outlined in Figure 6 based on the classification of the person. See [TAC 745.671](#) and its [associated chart](#).



TAC 745.671

*See **Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings** and its **associated chart**.*

Figure 6. FAD Actions for RTB SXAB and Trafficking Findings

Applicant

- Notify the applicant that CPS cannot verify or approve the home; and
- Send them form [K-902-2183](#) to appeal closure of their home or an action taken regarding their home.

Verified & Approved Foster or Adoptive Parent

- The home must be closed pending results of an appeal.
- These situations must be staffed with the supervisor and FAD program director immediately (same day) after FAD's finding notification.

Household Member, Visitor, & Intermittent Alternative Caregiver

- Notify the person and the foster or adoptive parents that CPS cannot allow the person around the children in care.
 - ▶ Remember the reasons are confidential and may only be shared with the party who has the finding. See [Criminal History Records Information](#).
- If the person will not or cannot leave the home, it must be closed.

Physical Abuse

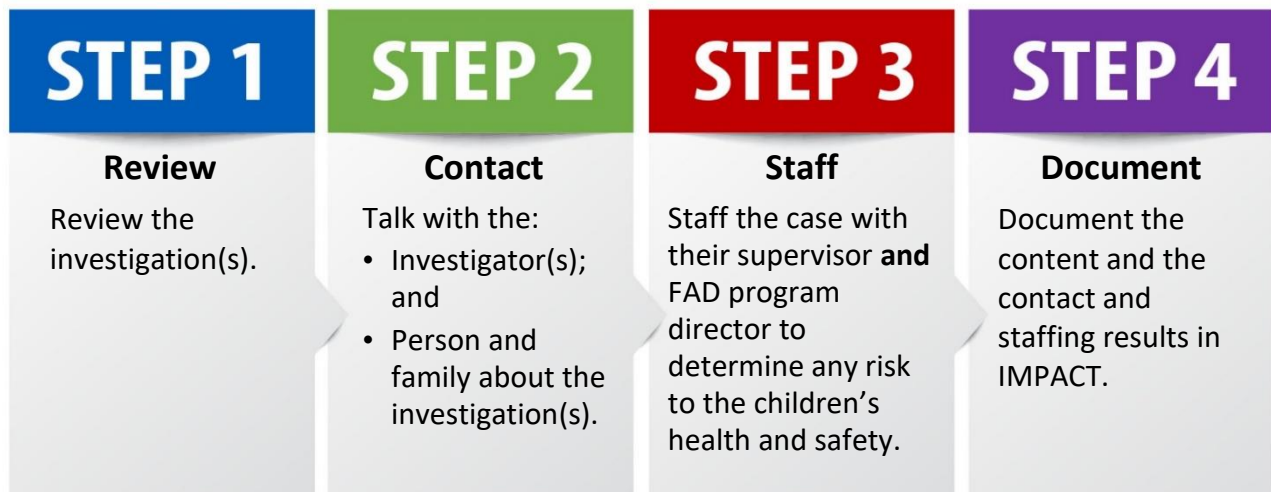
A person with a RTB for physical abuse (PHAB) is permanently banned from being a foster and adoptive parent or being around children in care unless:

- Five or more years have passed since the date of the PHAB finding; and
- The prospective foster or adoptive parent is related to or has a significant longstanding relationship with the child(ren) needing foster or adoptive care.



If the person meets the above exceptions, the FAD specialist takes the steps outlined in Figure 7 to determine if a risk evaluation will be requested. See also [Temporary Risk Evaluations](#), as well as [TAC 745.671](#), and its [associated chart](#).

Figure 7. FAD Specialist Steps for Requesting a Risk Evaluation from a RTB for PHAB Finding



Person Determined to Pose No Risk

If it is determined the person does not pose a risk to the health or safety of children, the FAD program can submit a risk evaluation.

See [Risk Evaluation Process](#).

Person Determined to Pose a Risk

If it is determined the finding is a ban, the FAD specialist takes the following actions outlined in Figure 8 based on the classification of the person.



Caution

CPS takes extreme caution when submitting a risk evaluation for persons with a RTB.

In many situations, CPS does not recommend a person with a RTB continue the verification or approval process or be around children.

Figure 8. FAD Actions for RTB for PHAB Findings

Applicant

- Notify the applicant that CPS cannot verify or approve the home; and
- Send them form **K-902-2183** to appeal closure of their home or an action taken regarding their home.

Verified & Approved Foster or Adoptive Parent

- The home must be closed pending results of an appeal.
- These situations must be staffed with the supervisor and FAD program director immediately (same day) after FAD's finding notification.

Household Member, Visitor, & Intermittent Alternative Caregiver

- Notify the person and the foster or adoptive parents that CPS cannot allow the person around the children in care.
 - ▶ Remember the reasons are confidential and may only be shared with the party who has the finding. See **Criminal History Records Information**.
- If the person will not or cannot leave the home, it must be closed.

Other Allegations

A person with a RTB disposition of any other type of allegation is eligible to be verified and approved as a foster or adoptive parent or be around children in care, provided a risk evaluation is approved. See [TAC 745.671](#) and its [associated chart](#).

These other types of allegations include:

- Neglectful supervision (NSUP);
- Medical neglect (MDNG);
- Refusal of parental responsibility (RAPR); and
- Emotional abuse (EMAB).

Before making the decision to request a risk evaluation, the FAD specialist takes the steps outlined in Figure 9 to determine if a risk evaluation will be requested.



TAC 745.671

*See **Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings** and its **associated chart**.*

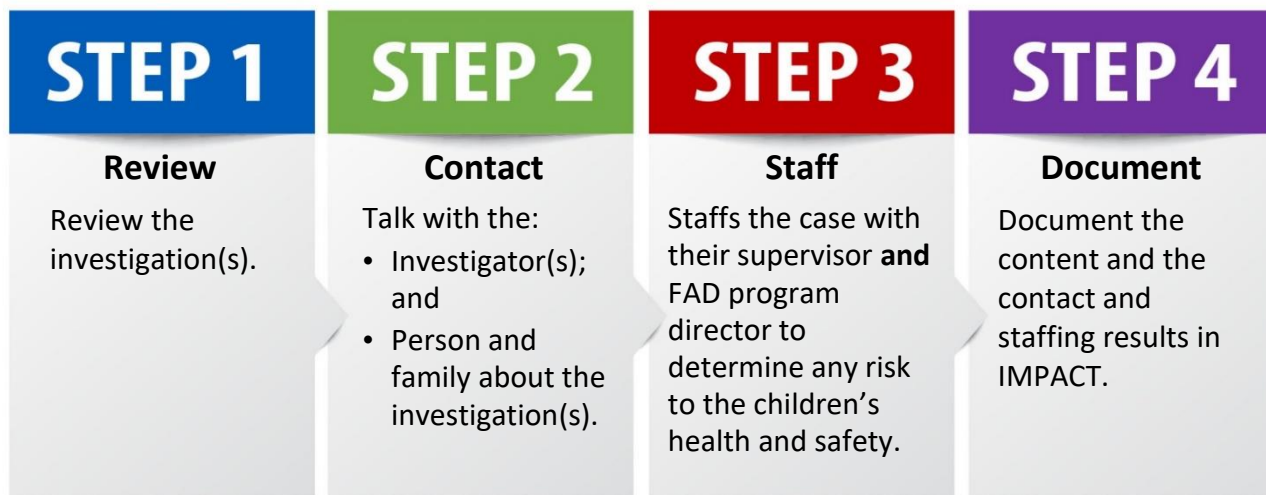


Caution

CPS takes extreme caution when submitting a risk evaluation for persons with a RTB.

In many situations, CPS does not recommend a person with a RTB continue the verification or approval process or be around children.

Figure 9. FAD Specialist Steps for Requesting a Risk Evaluation from a RTB for Other Allegations Finding



Person Determined to Pose No Risk

If it is determined the person does not pose a risk to the children's health or safety, the FAD program can submit a risk evaluation. See [Risk Evaluation Process](#).

Unable To Determine

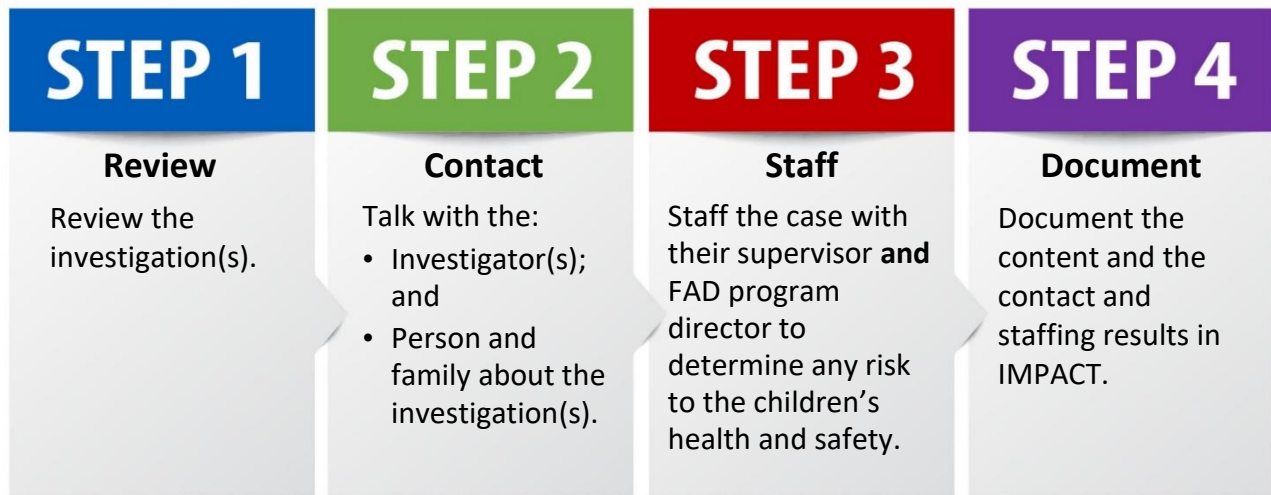
A person with an unable to determine (UTD) disposition for any allegation is eligible to be approved as a foster or adoptive parent **or** be around children in care. However, before FAD approves the person to move through the CPS verification and approval process **or** be around children in care, the FAD specialist takes the steps outlined in Figure 10 to determine if the person can continue in the process **or** be around children in care.



Caution

CPS takes caution when making the decision to allow a person with an UTD to continue the verification or approval process or be around children in care, especially when the investigation results in CPS providing further services to the family.

Figure 10. FAD Specialist Steps for Determining if a Person with an UTD Disposition can Continue the CPS Verification Process or be Around Children



Ruled Out

Anyone with a ruled out (R/O) disposition for any allegation is eligible to be a foster or adoptive parent **or** be around children in care. However, before FAD approves the person to move through the CPS verification and approval process **or** be around children in care, the FAD specialist takes the steps outlined in Figure 11.

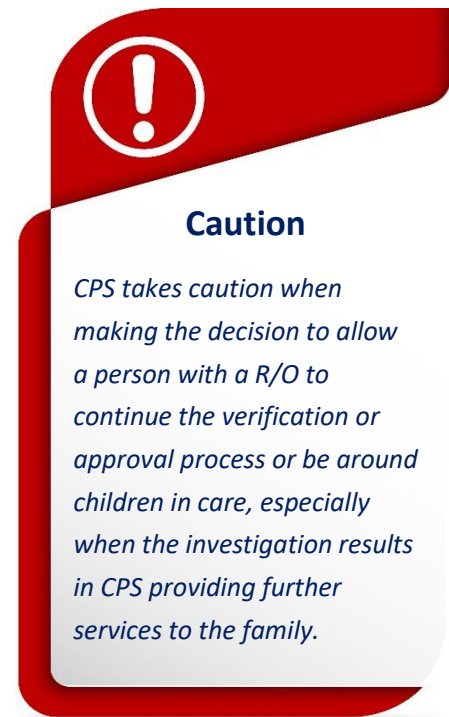
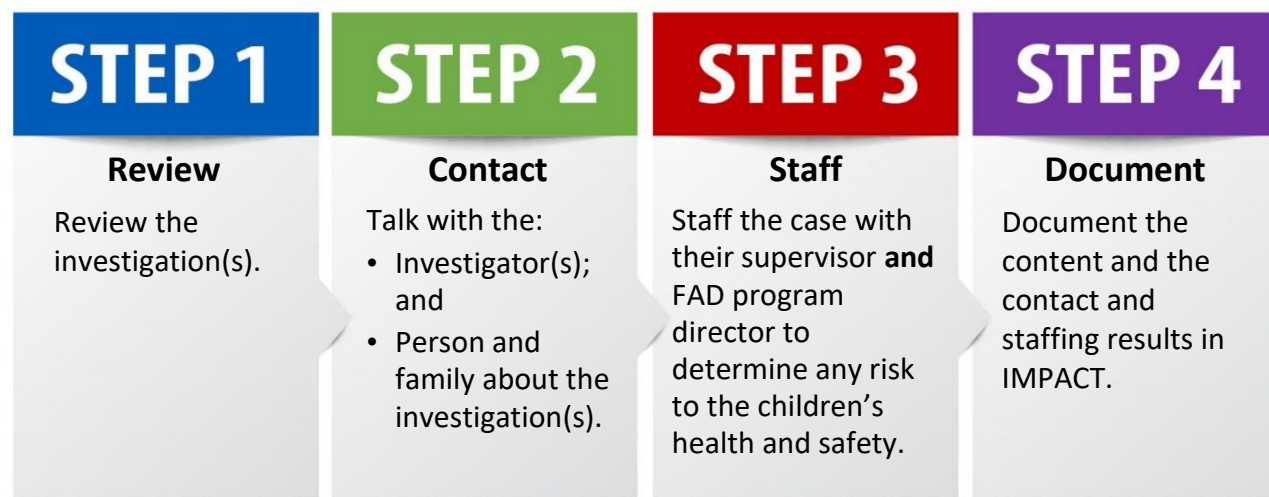


Figure 11. FAD Specialist Steps for Determining if a Person with a R/O Disposition can Continue the CPS Verification Process or be Around Children



Families with Recent Investigations or Multiple R/O Cases

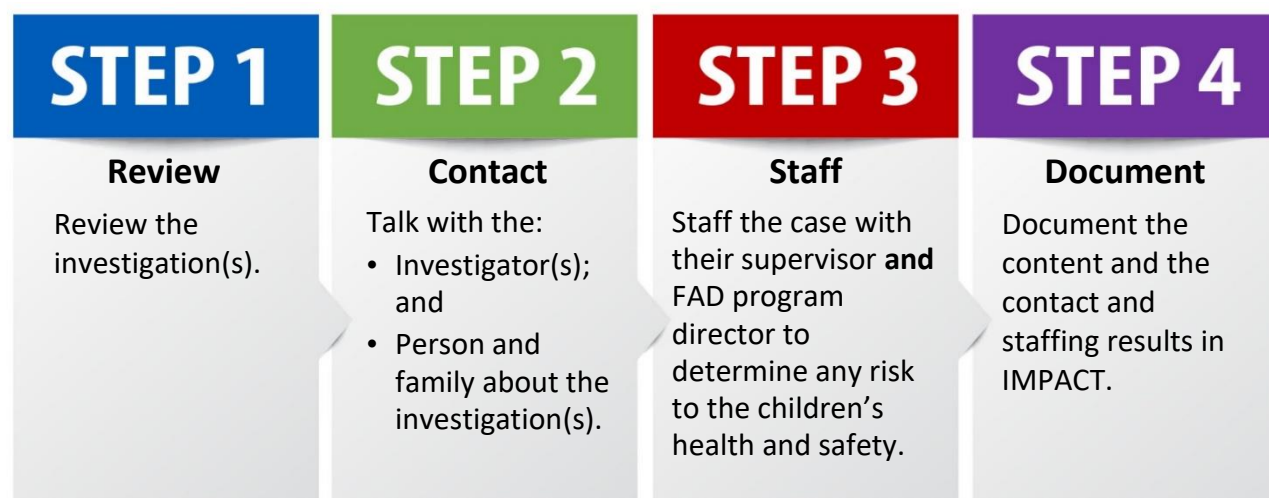
If the family has a recent (i.e., past year) investigation or two or more R/O cases, the FAD specialist must staff the case with the FAD program director and document the content and results in IMPACT.

Family Moved, Unable to Locate, or Unable to Complete

A person with a family moved, unable to locate, or unable to complete disposition is eligible to be approved as a foster or adoptive parent **or** be around children in care. However, before FAD approves the person to move through the CPS verification and approval process **or** be around children in care, the FAD specialist, the FAD specialist takes the steps outlined in Figure 12.



Figure 12. FAD Specialist Steps for Determining if a Person with a Family Moved, Unable to Locate, or Unable to Complete Disposition can Continue the CPS Verification Process or be Around Children



Adult Protective Services Findings

FAD staff may discover a person has been involved with APS. Remember APS does not have the same dispositions (i.e., RTB, R/O, etc.) as CPS. A valid finding of abuse or neglect with APS is not an automatic ban, but does warrant further review. APS findings are not subject to risk evaluations.

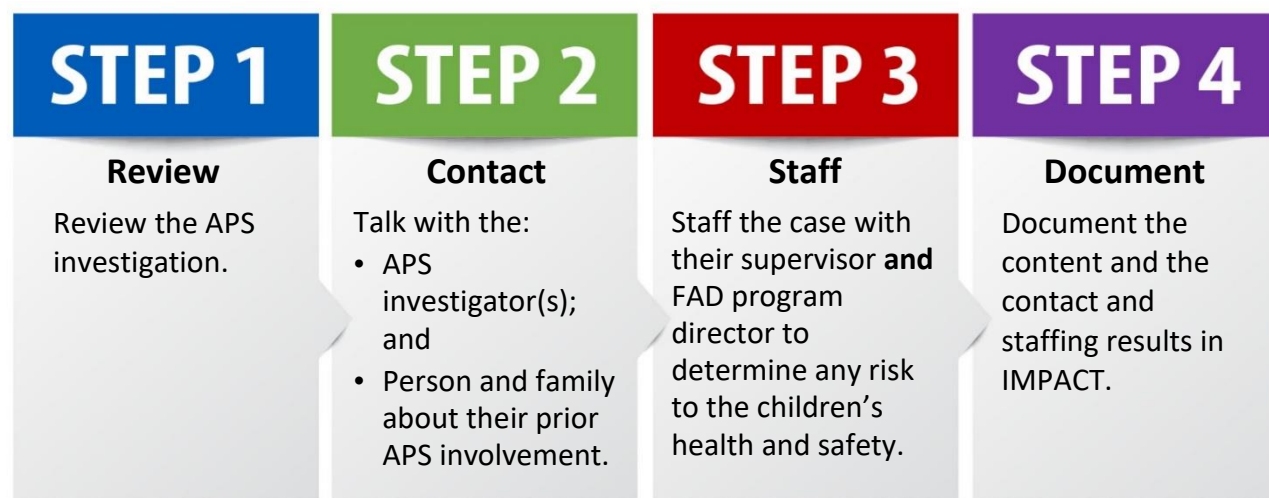
Open APS Cases

For persons with an open APS case, refer to [Active Investigations](#).

Closed APS Cases

A person with a closed APS case is eligible to be approved as a foster or adoptive parent **or** be around children in care. However, before FAD approves the person to move through the CPS verification and approval process **or** be around children in care, the FAD specialist takes the steps outlined in Figure 13.

Figure 13. FAD Specialist Steps for Determining if a Person with Prior APS Involvement can Continue the CPS Verification Process or be Around Children



Considerations When Assessing APS History

APS history assessments require consideration of the following four questions:

1. How does the reason for the APS history affect the person's ability to appropriately care for children?
2. Are there concerns the person is unable to meet his or her own needs?
3. Are there concerns another person is abusive and neglectful toward the potential caregiver?
4. Has the potential caregiver or person present around the children been abusive or neglectful toward another adult?

APS Facility Investigations

APS also conducts facility investigations of alleged abuse, neglect, and exploitation of people receiving mental health, intellectual disability, or developmental disability services in state-operated or state-contracted settings. Most facility investigations occur in state-operated facilities.

Facility settings investigated by APS are listed in Figure 14.

Figure 14. Facility Settings Investigated by APS

State-Operated Facilities

- State supported living centers; and
- State hospitals.

State-Contracted Facilities

- Private intermediate care facilities;
- Local mental and behavioral health authorities;
- Local intellectual and developmental disability authorities;
- Intellectual and developmental disability community-based services; and
- Texas Home Living.

3. Due Process

A due process hearing is an administrative proceeding to give a designated perpetrator or designated victim or perpetrator an opportunity to appeal an abuse or neglect finding made by DFPS. The State Office of Administrative Hearings (SOAH), an impartial agency, conducts the hearing.

Designated Perpetrator Requesting Due Process

If the DP (or DP's parent, if the DP is a minor) *requests* a due process hearing, the entire process and hearing can take 12 or more months to complete. Since the scheduling depends largely on the availability of SOAH hearing officers and multiple parties, the time frame is only an estimate, and in some cases, may take significantly longer.

FAD Requesting Due Process

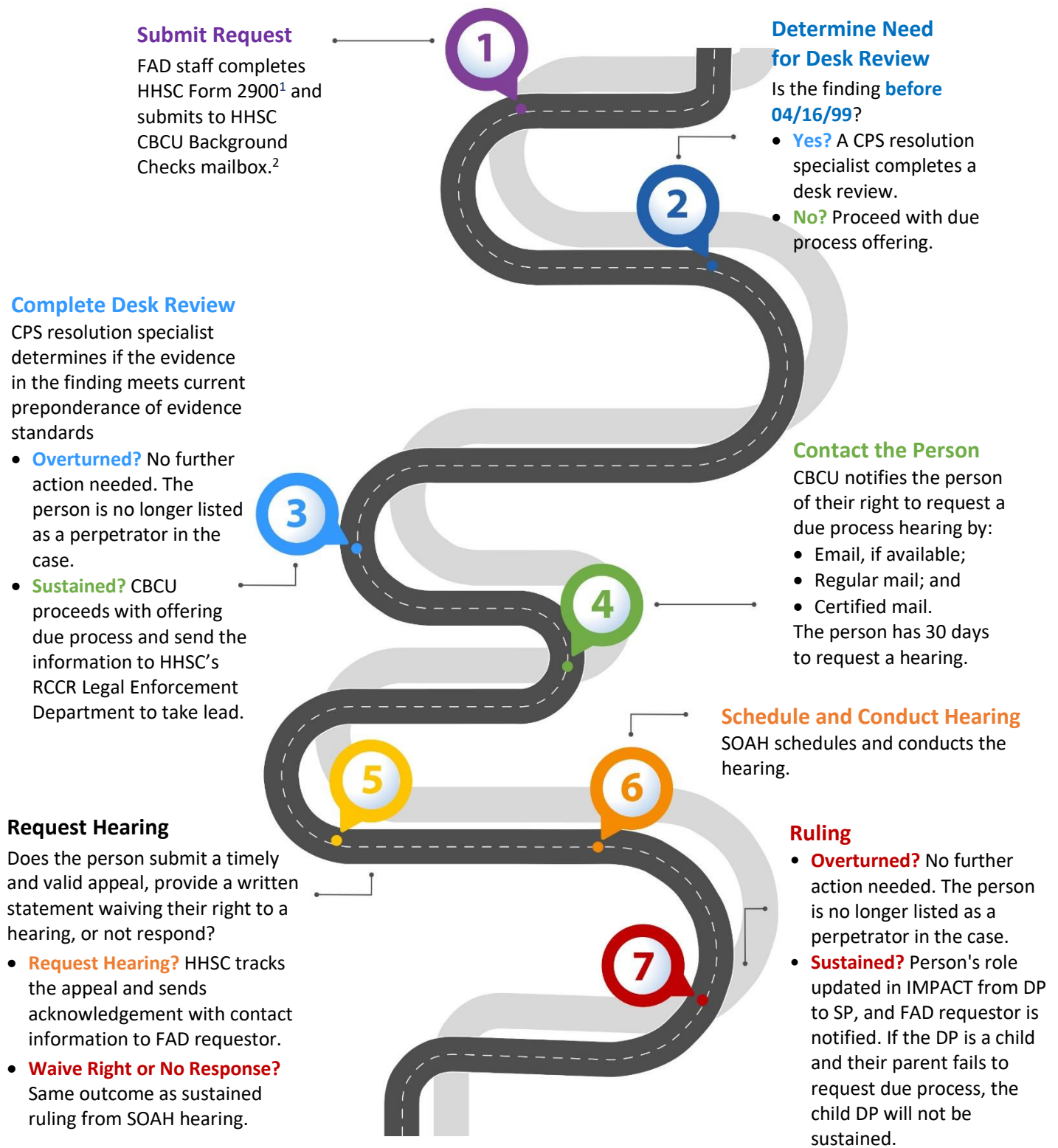
After determining the person with an abuse or neglect finding does not pose a risk to the health or safety of children and pursuing verification is desired despite the eligible RTB finding, the process in Figure 15 is followed. See [CBCU Policy 10240](#).



CBCU Email

For questions related to due process or hearing requests, email fadcbcubgchecks@hhs.texas.gov.

Figure 15. Due Process Steps



¹ [HHSC Form 2900](#)

² <mailto:FADCBCUBGChecks@dfps.state.tx.us>

Temporary Risk Evaluations

Policy allows CBCU to complete a temporary risk evaluation for foster or adoptive parents or a household member affiliated with unverified foster homes or unapproved adoptive homes in the following circumstances listed in Figure 16.

Figure 16. Allowable Circumstances for Temporary Risk Evaluation

Temporary Risk Evaluations Allowance Criteria

- Due process has been requested; **and**
- One of the following occurs:
 - ▶ DFPS has placed a child in the home;
 - ▶ DFPS plans to place a child in the home pending a background check decision; or
 - ▶ An adoption is pending a background check decision.

Persons Ineligible for Temporary Risk Evaluations

The following people listed in Figure 17 are ineligible for temporary risk evaluations.

Figure 17. Persons Ineligible for Temporary Risk Evaluations

Temporary Risk Evaluations Ineligibility Criteria

- Persons listed as a DP for SXAB, labor trafficking, or sex trafficking; and
- Persons listed as a DP for PHAB unless:
 - ▶ Five or more years have passed since the date of the PHAB finding; and
 - ▶ The prospective foster or adoptive parent is related to or has a significant longstanding relationship with the foster or adoptive parent.

4. Criminal History Checks

FAD staff are required to check the criminal history of each applicant, certain household members and certain visitors to the home. For guidance related to which persons living or present in a foster or adoptive home requires a background check. See [CPS Policy 7411.1](#) and [TAC §§745.651](#) and [745.661](#).

FAD staff must review each arrest and conviction. If results reveal an arrest and/or convictions for an applicant, household member, or visitor to the home, FAD staff must review the [Foster or Adoptive Homes: Criminal History Requirements Chart](#) to determine whether the person's history is one of the following listed in Figure 18.



CPS Policy 7411.1

See Required Background Check Charts, as well as TAC §745.651 Determinations Regarding Background Checks and TAC §745.661 Criminal History, Sex Offender Registry, and Child Abuse Or Neglect Findings.

Figure 18. FAD Determination When an Arrest and/or Conviction Exists

Person's History:

- Bars the person from being present in a verified or approved foster or adoptive home;
- Requires the person undergo a formal risk evaluation; or
- Otherwise raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship.

Criminal Involvement Results Confirmation

FAD must confirm the results of all criminal involvement. For example, sometimes a person is arrested for one offense and convicted for another or an additional offense, and at other times, a person is arrested, but the charges are dropped.

If the background check results do not show a disposition and/or level of offense (i.e., misdemeanor or felony), staff must obtain documentation of criminal involvement outcome for the FAD record.

See [TAC 745.697](#).



Where to Get Documentation

The types of documentation and their sources for criminal involvement outcomes are described in Figure 19 below.

Figure 19. Types of Documents Needed for Criminal Involvement Outcomes and Their Sources

Criminal Involvement Outcome Documentation: What and Who
<ul style="list-style-type: none">• Convictions and dismissals: District or County Clerk of the county of conviction;• Other criminal involvement not resulting in a conviction: District or County Attorney and local law enforcement authority; and• Probation and parole records: Probation or parole office.

Destroyed Records

Sometimes documentation is destroyed as part of normal business or disaster (i.e., fire, hurricane, etc.), and the results are unknown to the local entity.

If the documentation is destroyed and results are unknown by the local entity, the FAD program must obtain a letter from the local entity stating why the record is unavailable.

Self-Reported History

If the family self-reports history that is not found on any criminal history checks, the FAD staff must treat it as if it was a conviction and attempt to locate arrest records and court documents. More information provided in the [Orientation to Criminal Records](#) training.

Presence Around Children in Care Determination

If a person was required to undergo name- or fingerprint-based checks and the criminal history results show a record of arrests or convictions, the FAD specialist determines whether the person has been convicted of a crime that is one of the following listed in Figure 20.

Figure 20. FAD Determination When a Conviction Exists

Person's Conviction:
<ul style="list-style-type: none">• Temporarily or permanently bars the person from being present in a verified or approved foster or adoptive home;• Requires the person undergo a formal risk evaluation; or• Otherwise raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship.

Banned Convictions

Permanent Bar

DFPS will not approve a prospective foster or adoptive parent's application if anyone residing or present in the home (and therefore subject to background check requirements) has a conviction that is a permanent bar under state or federal law.

Permanent bars not only prohibit an applicant from becoming a foster or adoptive parent, but they also prohibit the person from being present in a foster or adoptive home while children are in care. Persons with permanent bars are not eligible for risk evaluations.



Temporary Bar

While a person with a temporary bar may be considered at a later date, the FAD specialist may not legally proceed until the temporary bar has elapsed.

Required FAD Actions

The FAD specialist takes the following actions for banned convictions based on the person's classification as described in Figure 21.

Figure 21. FAD Actions for Banned Convictions

Applicant
<ul style="list-style-type: none">• Notify the applicant that CPS cannot verify or approve the home; and• Send them form <u>K-902-2183</u> to appeal closure of their home or an action taken regarding their home.
Verified & Approved Foster or Adoptive Parent
<ul style="list-style-type: none">• The home must be closed.• These situations must be staffed with the supervisor and FAD program director immediately (same day).
Household Member, Visitor, & Intermittent Alternative Caregiver
<ul style="list-style-type: none">• Notify the person and the foster or adoptive parents that CPS cannot allow the person around the children in care.• If the person will not or cannot leave the home, it must be closed.

See the [Foster or Adoptive Homes: Criminal History Requirements Chart](#).

Prior Arrest(s), but No Conviction(s)

If the person has a prior arrest, but was not convicted, the person is eligible to continue with the verification or approval process and can be around children in care. However, before CPS approves the person to move through the CPS verification or approval process **or** be around children in care, the FAD specialist takes the steps outlined in Figure 22.

Figure 22. FAD Specialist Steps for Determining if a Person with a Prior Arrest, but No Conviction can Continue the CPS Verification Process or be Around Children



Convictions Not Requiring a Risk Evaluation

If the person has been convicted of an offense that is not a ban or does not require a risk evaluation, the person is eligible to continue with the verification and approval process and can be around children in care. See [Foster or Adoptive Homes: Criminal History Requirements Chart](#). However, before CPS approves the person to move through the CPS verification and approval process **or** be around children in care, the FAD specialist takes the steps outlined in Figure 23.

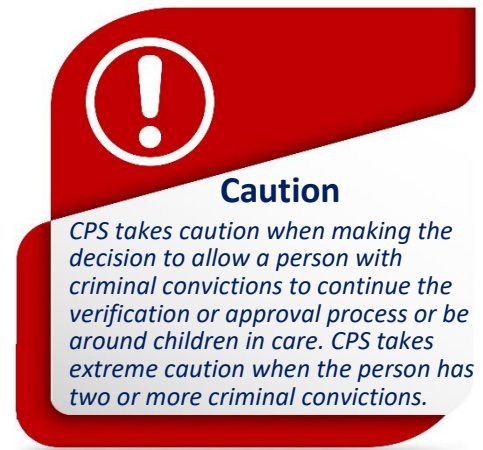
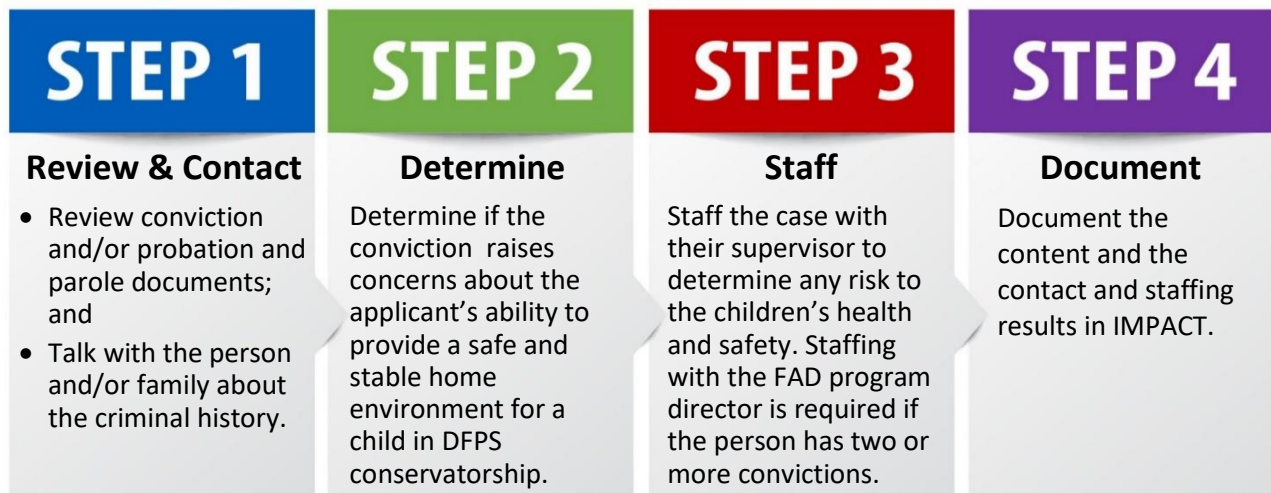


Figure 23. FAD Specialist Steps for Determining if a Person with a Conviction Not Requiring a Risk Evaluation can Continue the CPS Verification Process or be Around Children



Convictions Requiring a Risk Evaluation

If the conviction requires a risk evaluation, the FAD specialist completes the steps outlined in Figure 24 **before** completing [Form 2974c, Request for Risk Evaluation](#). See also [CPS Background Checks: FAD Homes and FBI Exigent Checks](#).

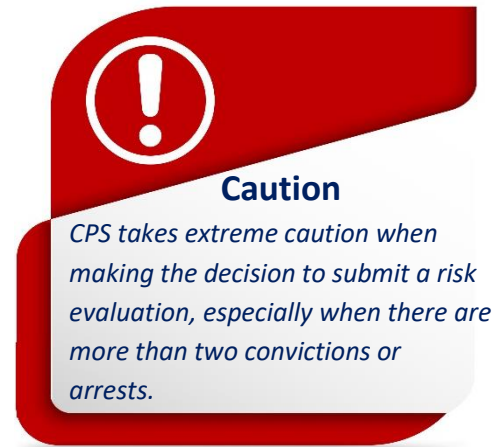
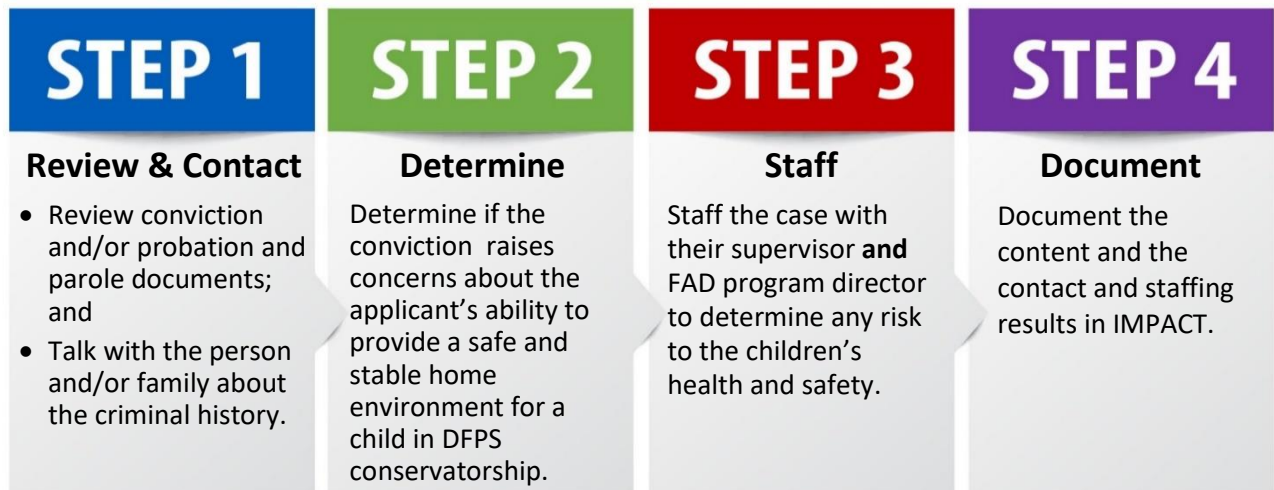


Figure 24. FAD Specialist Steps for Requesting a Risk Assessment for a Person with a Conviction



Law Enforcement Service Call History

The FAD specialist must obtain service call information from the appropriate law enforcement agency for the prospective foster and adoptive parents' addresses for the past two years. The service call background check will reveal if law enforcement has been to the home and for what reasons.

See [CPS Policy 7431](#).

The reasons law enforcement has visited the home, as well as the number of calls to the home, will be significant to FAD's evaluation and assessment of the prospective home's safety. For example, one incident for a noise disturbance may not be of concern, but multiple incidents of noise disturbances could be of concern and warrant a full evaluation.



Calls to Home Within Two Years

If the law enforcement service call check reveals any call to the home within the past two years, the FAD specialist must discuss each incident and any additional background information with the applicants.

The FAD specialist may need to speak to references and other household members to gain additional information related to the service calls. The FAD specialist documents these contacts in IMPACT. See [TAC 749.2445](#).

Domestic Violence

If the service call check reveals information related to domestic violence, FAD staff must report this information to RCCR regardless of whether staff verifies the home.



Juvenile Criminal History

DFPS is one of the few state agencies with access to juvenile records when completing DPS checks.

If a person has been convicted of an offense through the juvenile court, the person is eligible to continue with the verification and approval process and can be around children in care. However, before CPS approves the applicant to move through the CPS verification and approval process **or** be around children in care, the FAD specialist completes the steps outlined in Figure 25.

Figure 25. FAD Specialist Steps for Determining if a Person with a Juvenile Criminal History can Continue the CPS Verification Process or be Around Children



Totality of the Circumstances Considerations

Risk evaluations are not required for criminal convictions outside of those listed on the [Foster or Adoptive Homes: Criminal History Requirements Chart](#) nor is there a specific evaluation process for service call information obtained from law enforcement.

However, an applicant or household member's criminal history and service call information must be addressed in the home screening. This includes:

- The circumstances surrounding the conviction;
- The resolution of the conviction;
- An assessment of how the person and their life circumstances have changed since the arrest or conviction such that they do not present a risk or danger to children in care; and
- An assessment of the child's safety in relation to the conviction, history, or service call information.

5. Criminal History Records Information

Restrictions on Releasing CHRI

DFPS must follow Texas Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) laws and rules related to releasing criminal history records information (CHRI). DFPS often obtains this information from name-based checks and FBI fingerprint checks.

House Bill 4123, 88th Legislature, Regular Session, 2023, amended Government Code 411.114 when CHRI can be disclosed or released. Additionally, the FBI has strict limitations and guidelines on the release of disclosure of FBI CHRI.



Action

Do not release or disclose FBI CHRI to any person or entity, except the person who is the subject of the check.

CHRI Forms

The following forms are revised to ensure compliance with state and federal laws:

- **Form K-908-2178**: DFPS cannot provide any CHRI information. If any CHRI information is in the kinship assessment, it must be redacted before providing to the contractor.
- **Form K-908-0103**: Only document that the background checks were completed. Do not summarize or provide CHRI.
- **Form K-909-2191**: Only check the boxes if background checks were completed, as well as whether or not a risk evaluation is required. Do not summarize or provide CHRI.

See **CPS Policies 7400** and **1800**, as well as the **September 2023 Meeting in a Box**.



CPS Policy 7400

*See **Checking Criminal Records and Abuse and Neglect History** and its subitems, **CPS Policy 1800, Records Checks** and its subsections, and the **September 2023 Meeting in a Box**.*

Documentation

Documentation should be regarding life experiences and relationships. It should be documented elsewhere in a home study, not under the background check section of a home study.

There must be no release of arrests, convictions, police, jail, court, prison, charges, felony, misdemeanors, probation, parole, or the dates and locations thereof.

Discussion and assessing the person's reason and rationale behind the incident, how it was resolved, and the person's current state of being as reported by the person without mentioning CHRI is key.

DFPS staff does not copy and paste CHRI results into the home screening. Instead, document for each person – *"DFPS or FAD has reviewed, assessed, and discussed all background checks per Minimum Standards 749.2447(7) and 749.23623(5). Results of background checks are documented and located in IMPACT. [Person's name] meets licensing standards for foster care verification or adoption approval."*

Regions should also consult with their RCCR representative, CBCU, and the regional attorney regarding documentation requirements.

Documentation Examples

Incarceration

Mr. Jones reported drug use and excessive alcohol abuse in his younger years. He stated that the poor choices he made in his early 20s led to a 5-year separation from his family and divorce from his first wife. Mr. Jones stated he is a changed man and has learned from his mistakes. He completed a drug and alcohol rehabilitation program 30 years ago and still attends AA meetings to this day for support, but he has remained estranged from his now adult children. He has maintained sobriety since age 25.

Arrest

Ms. Smith reported she went through a tough time after her father's death. She dropped out of college and developed relationships with a bad crowd. These relationships led to further troubles for her and her family. She stated those troubles were ultimately a "wake up call" for her and the catalyst for turning her life around. She re-enrolled in school.

6. CBCU Consultation

Through the evaluation, assessment, and supervision of families, FAD staff often looks at criminal and abuse and neglect history checks of prospective and current foster and adoptive parents. This information may come from Texas or another state.

Other states' definitions of criminal convictions and child abuse and neglect can differ from Texas. States' definitions also change over time to keep up with new laws and changes in society.

CBCU plays a vital role in the review of background checks that may rise to the level of a risk evaluation; therefore, communication with CBCU is key.

Contacting CBCU

If assistance is needed with evaluating or assessing criminal or abuse and neglect history, FAD staff should contact CBCU at fadcbcubgchecks@hhs.texas.gov for consultations regarding in-state and out-of-state criminal history and for out-of-state abuse and neglect history.

To ensure prompt response, FAD staff use the following format outlined in Figure 26 when initiating communication with CBCU to request assistance.

Figure 26. CBCU Consultation Request Email Notification Format

Subject Line
<ul style="list-style-type: none">Request for FAD Consultation About Background Check Results
Email Body Information
<ul style="list-style-type: none">Identity of person in question;State providing the history;Information available about the circumstances surrounding the history; andAvailable documentation (i.e., court documents, police reports, etc.) that provide additional details regarding the history.

CBCU Staff Assignments

Once FAD submits a consultation request, a CBCU program specialist will be assigned to consult with FAD regional staff on:

- How to proceed with criminal convictions that do not appear on the criminal conviction chart;
- Criminal convictions that do not fall within clearly defined rules; and
- Out-of-state abuse and neglect history.

CBCU Responsibilities

The CBCU program specialist's primary responsibility is to provide guidance on how to evaluate and assess criminal history and/or out-of-state abuse and neglect history not otherwise addressed in rule, policy, or practice.

The CBCU program specialist contacts DFPS Legal, if needed, for legal guidance on how to proceed with a person's background check. CBCU will need court records, police reports, and abuse or neglect findings to help determine with Legal what action, if any, should be taken.

The CBCU program specialist then notifies the requesting FAD staff of DFPS Legal's decision.

FAD Responsibilities

FAD staff must ensure the history in question is not otherwise addressed in rule or policy **before** requesting a CBCU consultation.

When requesting a consultation, FAD staff must provide all available necessary documents (i.e., court records, police reports, and abuse or neglect findings) to assist Legal in making a decision on any necessary action.

Once CBCU has notified the requesting FAD staff of DFPS Legal's decision, the FAD specialist documents the content and results of these contacts and staffings in IMPACT.

7. Risk Evaluations

Some convictions or abuse or neglect findings do not permanently bar a person from becoming a foster or adoptive parent or being present in a foster home while children are in care.

However, persons with these convictions or sustained findings may only be present in a foster or adoptive home while children are in care after a risk evaluation is requested and approved.

Applicant Eligibility

Before requesting a risk evaluation, the FAD specialist and supervisor assess whether the applicant is eligible to continue with the verification or approval process.

To make this assessment, the specialist and supervisor consider not only whether a risk evaluation is permitted, **but also** whether it is appropriate to proceed, considering the person's history.



Note

The fact a person with extensive history may be eligible for a risk evaluation does not mean FAD must proceed with the risk evaluation.

As the child-placing agency responsible for verifying or approving the home, FAD must also conclude the person does not pose a risk to the health or safety of children.

Conditions Necessary to Request a Risk Evaluation

All the conditions listed in Figure 27 must occur before the FAD program submits a request for a risk evaluation. See also [TAC 745.681](#).

Figure 27. Risk Evaluation Required Conditions

Conditions Necessary for a Risk Evaluation Request

1. The FAD program assesses if the person has made life changes showing they have been rehabilitated;
2. The FAD program assesses if the person is not a risk to children's health or safety;
3. The FAD program desires to verify or approve the home or approve the person to be around children in care; and
4. The person's history has been staffed with the FAD program director, and program administrator supports submitting the risk evaluation.



TAC 745.681

*See Evaluation of Risk Because
of Criminal History or a Child
Abuse or Neglect Finding.*

Required Documentation

The FAD specialist documents this staffing content and results in IMPACT. The risk evaluation documentation must articulate **how** these assessments were made, not just **that** they were made.

Risk Evaluation Process

Request

FAD staff complete all requests for risk evaluations using [Form 2974c](#), **CPS Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings for Foster/Adoptive Homes**.

Submit

Submit the form along with all supporting documents identified on the form to the CBCU mailbox at fadcbcubgchecks@hhs.texas.gov.

See [TAC 745.687](#).



Frequently Asked Questions

Must FAD request a risk evaluation if it is determined the person should not be verified and approved or be around children in care?

No. FAD should **not** request a risk evaluation if the program does not think the person should be verified and approved or be around children in care. FAD should only request risk evaluations if the FAD program believes the person is not a risk to children and should be verified and approved or be around children in care.

What does FAD do if a family had a risk evaluation approved or denied when they were with another agency?

FAD **must** make its own assessment of whether the person is a risk to children and has been rehabilitated, as well as an independent decision on submitting a risk evaluation on the person.

What if the family had a risk evaluation approved before, later closed their home with CPS, and now wants to be verified and approved by FAD again?

FAD must make a new assessment of the person and another risk evaluation determination. See [TAC 745.697](#).



8. New Results for Persons Present in a Verified or Approved Home

If the FAD specialist receives information about a new arrest, conviction, or an abuse or neglect investigation on a verified or approved home, the FAD specialist consults with the FAD program administrator or designee and takes the following actions, as applicable.

Arrested or Charged With a Crime

If the person is arrested or charged with a crime, the FAD specialist reports the information to their regional RCCR representative.

If the offense for which the person is arrested or charged would be a bar to being present, either permanently or temporarily pending the outcome of a risk evaluation, the person cannot be present where children are in care unless the charge has been dismissed, the prosecutor rejects the charge, the person has been acquitted, etc., or upon completion of a risk evaluation permitting the person to be present. See [TAC §§745.665](#) and [745.667](#).



More Information

See TAC 745.665 and TAC 745.667 Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings.

Previously Unknown Criminal Conviction or Abuse or Neglect Finding

If the FAD specialist becomes aware of a criminal conviction or finding of abuse or neglect not previously considered, the FAD specialist reports the information to their regional RCCR representative. The person with the finding may be barred from being present in the operation or RCCR may place conditions on the person's presence. See [TAC 745.665](#).



TAC 745.665

See Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings.

Person Becomes Subject of Abuse or Neglect Investigation

If a person in the home, who is required to undergo background checks, becomes the subject of an abuse or neglect investigation, the FAD specialist notifies their regional RCCR representative immediately. The person may remain present unless RCCR determines the person poses an immediate threat or danger to the health or safety of children.

Through CBCU, RCCR makes the ultimate decision about the person's presence or conditions on the person's presence.

See [TAC §§745.673](#), [745.751](#), and [745.631](#).



More Information

See TAC 745.673 Criminal History, Sex Offender Registry, and Child Abuse or Neglect Findings, TAC 745.751 Immediate Threat or Danger to the Health Or Safety of Children, and TAC 745.631 Determinations Regarding Background Checks.

List of Acronyms

Acronym	Full Name
AP	Alleged Perpetrator
AR	Alternative Response
CBCU	Centralized Background Check Unit
CCL	Child Care Licensing
CHRI	Criminal History Records Information
CPS	Child Protective Services
DFPS	Department of Family and Protective Services
DP	Designated Perpetrator
DPS	Texas Department of Public Safety
EMAB	Emotional Abuse
FAD	Foster and Adoptive Home Development
FBI	Federal Bureau of Investigation
HHSC	Health and Human Services Commission
PHAB	Physical Abuse
MDNG	Medical Neglect
NSUP	Refusal of Parental Responsibility
RAPR	Refusal to Accept Parental Responsibility
RCCR	Residential Child Care Regulation
R/O	Ruled Out
RTB	Reason To Believe
SOAH	State Office of Administrative Hearings
SP	Sustained Perpetrator
SXAB	Sexual Abuse
TAC	Texas Administrative Code
UTD	Unable To Determine