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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<b><u>Distribution:</u></b>  <input type="checkbox"/> All Child Care Evaluator Manual Holders <input type="checkbox"/> All Residential Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Evaluator Manual Holders	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><b><u>Transmittal No.</u></b></td> </tr> <tr> <td style="padding: 2px;"><b>09RM-12</b></td> </tr> <tr> <td style="padding: 2px;"><b><u>Date Issued</u></b></td> </tr> <tr> <td style="padding: 2px;">September 2009</td> </tr> </table>	<b><u>Transmittal No.</u></b>	<b>09RM-12</b>	<b><u>Date Issued</u></b>	September 2009
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**Subject:**

Reference Material  
 Complaints  
 Section 3-2315 – Documenting the Investigation

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**Reason for Change:**

Revision to the Evaluator Manual was necessary to comply with Assembly Bill 978

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**Filing Instructions:**

REMOVE – Pages 15 and 16

INSERT – Pages 15 and 16

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**Approved:**

*Original signed by Thomas Stahl*

*9/30/09*

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**THOMAS STAHL Chief**  
 Policy Development Bureau  
 Community Care Licensing Division

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Date

Contact Person: Seton Bunker

Phone Number: (916) 322-1192

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## 3-2315 DOCUMENTING THE INVESTIGATION

3-2315

The official form for documenting the investigation is the Complaint Investigation Report (LIC 9099). (Refer to Evaluator Manual section 3-3125.) The LIC 9099 is intended for use in the field as an expeditious means of reporting and recording the analyst's findings. It is also a public record of the licensee's/operator's response and agreed upon corrections and dates. **With the exception of Residential Care Facilities for the Elderly all "unfounded" complaints are contained in the confidential file and not the public file.**

The analyst will complete the LIC 9099, after the appropriate facility inspection, records review, and interviews, and prior to departing. When selecting a place in which to write the report, the analyst should request a location which prevents disruptions to the facility schedule and which minimizes interruptions of the analyst's work. In special situations it may be necessary to leave the facility to write the report and then return to present the findings and obtain a Plan of Correction. Except in cases where the complaint is determined to be unfounded, the LIC 9099 must not be mailed to the licensee in lieu of a return visit. With Certified Family Home investigations, give the LIC 9099 to the licensee or designated representative of the associated Foster Family Agency.

The Complaint Investigation Report includes an identification of who conducted the investigation, the purpose of the visit, who was contacted at the facility, followed by the complaint allegation and a summary of the investigation findings. When documenting the investigation findings, the analyst should be specific regarding the allegation and the reason for the determination of findings, **consistent with confidentiality statutes**. The report must conclude with a resolution for the complaint allegation. For allegations that require further investigation, refer to Evaluator Manual section 3-2640, Informing the Licensee of Complaint.

**NOTE:**

1. For special documentation instructions regarding Community Care Facilities, Residential Care Facilities for the Elderly and Residential Care Facilities for the Chronically Ill, that are not owner-occupied, refer to Evaluator Manual section 3-2325, Complaints Involving Facilities That Are Not Owner-Occupied.
2. For Certified Family Home investigations, give a LIC 9099 to the licensee or designated representative of the associated Foster Family Agency.

If the complaint is substantiated, the facility must be cited. The deficiencies would be cited by regulation number and a Plan of Correction date would be established on the LIC 9099. At this time the analyst should advise the licensee of his/her right to provide comments on the LIC 9099 regarding the complaint. In addition, the licensee may submit a letter to respond to the LIC 9099 and these documents become a matter of public record. The licensee should be advised that any comments made on the LIC 9099 or additional documents for the public record must not include names of clients or family of clients. (Refer to Evaluator Manual section 3-3125 for instructions for completing an LIC 9099.)

The following resolution codes shall be used when determining the status of complaints:

- (S) Substantiated** – A finding that the complaint is *substantiated* means that the allegation is valid because the preponderance of the evidence standard has been met.
- (I) Inconclusive** – A finding that the complaint is *inconclusive* means that although the allegation may have happened or is valid, there is not a preponderance of the evidence to prove that the alleged violation occurred.

## 3-2315 DOCUMENTING THE INVESTIGATION (Continued)

3-2315

- (U) **Unfounded (formerly not substantiated)** – A finding that the complaint is *unfounded* means that the allegation is false, could not have happened, and/or is without a reasonable basis.

The following documentation procedures are to be used for all facility categories, except as noted in #3 below:

1. The analyst is to inform the licensee or designated representative of all specific allegations at the time of the initial visit, except for those complaints involving suspected abuse. Refer to Evaluator Manual section 3-2610, Investigating Allegations of Abuse.
2. The investigation findings for each complaint allegation **are** to be documented on the Complaint Investigation Report. The LIC 9099 has been designed to accommodate one allegation per form. However, the Licensing Program Analyst may document more than one allegation per form, provided space is available and the findings are the same for each allegation, i.e. all unfounded, substantiated, inconclusive, **or** needs further investigation. The Licensing Program Analyst cannot document two allegations with different findings (i.e. one allegation that is unfounded and the other substantiated). Also, it is not appropriate to lump all food service or physical plant allegations under one allegation. For example, if the complaint received is for no menus, dirty kitchen, and clients being deprived of food in the facility, these allegations must be treated as three separate allegations. (See Evaluator Manual section 3-3125, Documentation.)
3. All substantiated and inconclusive complaint allegations are to be retained in the public file. All unfounded complaint allegations for community care facilities and child care facilities (excluding Residential Care Facilities for the Elderly, and Residential Care Facilities for the Chronically Ill) are to be retained in the confidential file.
4. If an allegation requires further investigation, the LIC 9099 is to be retained in the confidential file until a resolution is reached. If the allegation is determined to be substantiated or inconclusive, both LIC 9099s will be filed in the public file. If the allegation is unfounded, both LIC 9099s will be filed in the confidential file.
5. For complaints that are “unfounded”, licensing staff shall notify licensees, in writing, within 30 days of the determination that the complaint has been determined unfounded. Licensing staff must use the LIC 9099 to notify the licensee and the notification must include the statement, “This agency has investigated the complaint alleging (indicate the complaint allegation). We have found that the complaint was unfounded, meaning that the allegation was false, could not have happened and/or is without a reasonable basis. We have therefore dismissed the complaint.”
6. All documentation of communications between licensing staff and the Legal Division regarding any matter involving the investigation shall be retained in the confidential file. Such documentation is subject to the attorney-client privilege and not to be released to anyone without the Legal Division’s approval.