

**TITLE 11. DEPARTMENT OF JUSTICE  
DIVISION 1. ATTORNEY GENERAL  
CHAPTER 13.6 DEPARTMENT OF JUSTICE  
REGULATIONS FOR THE CERTIFICATION OF NON-EXEMPTED INDIVIDUALS  
WHO TAKE FINGERPRINT IMPRESSIONS**

**FINAL REGULATIONS TEXT  
DEPARTMENT OF JUSTICE REGULATIONS PERTAINING TO  
THE FINGERPRINT ROLLING CERTIFICATION PROGRAM.**

**Section 994.1. Scope**

The provisions of these regulations implement, interpret, and make specific the mandate in Penal Code (PC) section 11102.1 which became effective January 1, 2003. The mandate requires the Department of Justice (DOJ) to certify individuals who take fingerprint impressions for criminal offender record information (CORI) clearances for employment, licensing, and certification purposes. Individuals who are law enforcement personnel, or who are state employees who have received training pertaining to applicant fingerprinting and have undergone a CORI background investigation are exempted from these regulations. These regulations also establish procedures for the application form and for the issuance of the required certification number and notification process. These regulations also set forth appeal procedures if the application is denied, suspended, or revoked.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 11102.1, Penal Code.

**Section 994.2:**

- (a) "Administrative Hearing Officer" means an individual designated by the Director to conduct any hearing required under these regulations.
- (b) "Applicant Live Scan" means a system for the electronic submission of applicant fingerprints.
- (c) "Attorney General" means the Attorney General of the State of California.
- (d) "California Driver's License or CDL" means a license to drive a vehicle issued by the California Department of Motor Vehicles, which may be used as evidence of identity, age, and residence.
- (e) "California Identification or CA ID" means a form of identification issued by the California Department of Motor Vehicles, which may be used as evidence of identity, age, and residence.
- (f) "Criminal Offender Record Information or CORI" means the same as defined in Penal Code section 13102.
- (g) "Director" means the Director of the Division of California Justice Information Services, Department of Justice, State of California.

(h) "DMV" means the California Department of Motor Vehicles.

(i) "DOJ" means the California Department of Justice.

(j) "Non-Exempted Individuals" means those individuals not exempted from the certification requirements of these regulations as specified in Penal Code section 11102.1(2)(A)(B).

(k) "SSN" means the Social Security Number as issued by the United States Social Security Administration.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 17520, Family Code; Section 11425.30, Government Code; and Sections 11102.1, 13102 and 13125, Penal Code.

**Section 994.4:**

Any individual who desires to apply for certification under these regulations can access the BCIA 8372 (rev. 07/10) "Application for Certification for Non-Exempted Individuals to Take Fingerprint Impressions," on the Attorney General's website, located under the Fingerprint Submissions heading. Also on the Attorney General's website are pre-certification materials that each applicant may review prior to submitting the application. This Form is incorporated herein by reference.

The application form shall contain the following information:

(a) The full name, date of birth, address, including the city, county, and zip code, and telephone number of the person applying for certification.

(b) The California Driver's License number on a valid California Driver's License issued by the DMV, or a California ID number on a valid identification card issued by the DMV.

(c) The SSN of the person applying for certification.

(d) A yes or no answer to the following questions. Except in item (1), in any case where a yes answer is given, an explanation must be provided in the space provided on the application:

(1) Are you a California resident?

(2) Have you ever used a name other than the one on this application?

(3) Have you ever been convicted by any court of a felony or misdemeanor offense in California or any other state?

(4) Have you ever been arrested in California or any other state and/or are you awaiting adjudication for any offense for which you were arrested?

(5) Have you ever been denied a professional license or had such license revoked, suspended, or restricted?

(6) Have you ever been adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of state regulatory laws?

(7) Have you ever failed to satisfy any court ordered money judgment including restitution?

(e) Applicant must sign under penalty of perjury and certify on the application to the following: “I certify that I have read the pre-certification materials provided by the DOJ. I certify under penalty of perjury under the laws of the State of California to the truth and accuracy of all statements, answers, and representations made in the foregoing application, including all supplementary statements.”

(f) Misrepresentation or failure to disclose requested information on the application for certification is cause for denial or revocation of certification.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 17520, Family Code; and Sections 11102.1 and 13125, Penal Code.

**Section 994.5:**

(a) The applicant shall send a completed application to the DOJ.

(b) The applicant shall have his/her fingerprint impressions taken through the electronic (live scan) capture process.

All fees for the certification must be paid directly to the agency providing the live scan services. An additional fingerprint rolling fee will be collected.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 11102.1, Penal Code.

**Section 994.6:**

(a) When the fingerprints have been processed and the application for certification has been approved. The applicant will be notified that the application has been accepted and certified. The notice, which will include the certification number, will serve as confirmation that the person named has been certified by the DOJ to take fingerprint impressions of individuals for employment, licensing, and certification purposes.

(b) The certification number assigned in (a) above will be required on all fingerprints submitted by the certified individual.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 11102.1, Penal Code.

**Article 4. Processing Times and Appeals**

**Section 994.9 Processing Time:**

The following time standards will apply to the processing of applications for certification if individuals who take fingerprint impressions:

(a) Within 30 days after the date of receipt of an application for certification, the DOJ shall notify the applicant in writing that the application has been received and is being processed as complete, or that the application is deficient. If the application is deficient, the written notice will specify what specific additional information is required.

(b) Within 120 days after the receipt of a completed application, and other documents as specified in section 994.5 of these regulations, the DOJ shall complete the processing of the application and forward a certification notice as specified in section 994.6 of these regulations. If after processing the application the applicant has been determined to not meet the requirements for certification, the DOJ shall notify the applicant that the application has been denied along with a statement of reasons on which the denial is based.

NOTE; Authority cited: Section 11102.1, Penal Code. Reference: Section 11102.1, Penal Code.

**Section 994.10 Processing Time Appeal Process:**

(a) If the DOJ fails to meet the time period for concluding the processing of an application for certification, the applicant may apply in writing for a full refund of all applicable fees. The request must be received by the DOJ within 30 days from the date of service of the final decision granting or denying the certification.

(b) The DOJ shall respond within 10 days from the date of receipt of a request for refund.

(c) If the refund is denied by the DOJ, the applicant may directly appeal the denial in writing to the Director. The appeal must be filed within 20 days from the date of service of the refund denial from the DOJ. The appeal shall set forth a concise statement of facts and chronology of events regarding the application for certification.

(d) An appeal in subsection (c) of this section will promptly be reviewed, and a decision will be issued within 30 days from the completion of any investigation which the Director deems appropriate. The appeal in subsection (c) of this section will be decided in the applicant's favor if the DOJ has exceeded its maximum time period for the issuance or denial of the application for certification, and the DOJ has failed to establish good cause for exceeding this time period.

(e) The DOJ shall include information regarding this appeal process with all denial notices.

NOTE: Authority cited: Section 11102.1, Penal Code. Reference: Section 11102.1, Penal Code.

**Article 5. Procedures for Denial of an Application, and Suspension or Revocation of an Existing Certification**

**Section 994.11 Denial, Revocation or Suspension of Existing Certification:**

(a) The DOJ may deny an application for certification, or may suspend or revoke an existing certification, for reasons as specified in Penal Code section 11102.1.

(b) When an application is denied, or existing certification is suspended or revoked, the DOJ shall provide the applicant with a written notice which will specify all causes on which the denial, suspension, or revocation is based.

(c) When an application is denied, or when an existing certification is suspended or revoked, the applicant may file, within 30 days from the date of the written notification of the denial, suspension, or revocation, a written request for reconsideration by an Administrative Hearing Officer. Such requests may include any and all evidence and legal arguments which the applicant feels is relevant to a reconsideration of the application, suspension or revocation. The DOJ shall provide the applicant with a written notice of its final decision within 60 days of the time the request for reconsideration is received.

NOTE: Authority cited: Section 11102.1, Penal Code; and Section 11400.20, Government Code. Reference: Section 11102.1, Penal Code; and Sections 11445.10-11445.60, Government Code.

#### **Section 994.12 Administrative Hearing:**

(a) If an administrative hearing is requested by the applicant, or the person with an existing certification that has been suspended or revoked, a hearing shall be held within 30 days unless a later date is requested by the person requesting the hearing. The hearing shall be conducted by an Administrative Hearing Officer appointed by the DOJ. The hearing officer shall not have participated in the decision to deny the application for certification or in suspending or revoking the existing certification that is the subject of the hearing before him or her.

(b) The person whose application has been denied or whose existing certification has been suspended or revoked shall be given the opportunity to be heard and to be represented by counsel during any hearing proceedings.

(c) An Administrative Hearing Officer shall disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the Administrative Hearing Officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined by another Administrative Hearing Officer appointed by the DOJ.

(d) The proceedings at the hearing shall be reported by a certified shorthand reporter, except that, upon the consent of all the parties, the proceedings may be reported electronically.

NOTE: Authority cited: Section 11102.1, Penal Code; and Section 11400.20, Government Code. Reference: Section 11102.1, Penal Code; and Sections 11445.10-11445.60, Government Code.

#### **Section 994.13 Time and Place of Administrative Hearing is amended as follows:**

The DOJ shall notify the person requesting the hearing of the time and place of the hearing. Failure of the person requesting the hearing to appear at the hearing shall be deemed a withdrawal of the request for the hearing and the action of the DOJ shall be final.

NOTE: Authority cited: Section 11102.1, Penal Code; and Section 11400.20, Government Code.  
Reference: Section 11102.1, Penal Code; and Sections 11445.10-11445.60, Government Code.

**Section 994.14 Evidence Rules:**

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If the person requesting the hearing does not testify on his or her own behalf, he or she may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

NOTE: Authority cited: Section 11102.1, Penal Code; and Section 11400.20, Government Code.  
Reference: Section 11102.1, Penal Code; and Sections 11445.10-11445.60, Government Code.

**Section 994.15 Proposed Decision:**

The Administrative Hearing Officer shall prepare a Proposed Decision in such a form that it may be adopted as the decision in the case. A copy of the proposed decision shall be furnished to the person requesting the hearing and the Director no later than 20 days after the hearing. The Director may adopt the decision in its entirety or may decide the case upon the record with or without taking additional evidence. The person requesting the hearing shall be notified of the Director's decision within 30 days of the hearing or within 30 days of the taking of additional evidence, whichever is later.

NOTE: Authority cited: Section 11102.1, Penal Code; and Section 11400.20, Government Code.  
Reference: Section 11102.1, Penal Code; and Sections 11445.10-11445.60, Government Code.