

**CALIFORNIA DEPARTMENT OF JUSTICE**

**TITLE 11. LAW**

**DIVISION 1. ATTORNEY GENERAL**

**CHAPTER 4.5. CALIFORNIA VOLUNTEER AND EMPLOYEE CRIMINAL HISTORY**

**SERVICE (CalVECHS) PROGRAM**

**TEXT OF PROPOSED REGULATIONS**

**Article 1. General**

**§ 401. Definitions of Key Terms.**

(a) “Qualified entity” means a ~~business or organization~~human resource agency or an employer, ~~whether public, private, for profit, not-for-profit, or voluntary, that provides care or licenses, certifies, or places others to provide care.~~

(b) “Care” means the provision of services, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(c) “Child” means a person under the age of 18 years.

(d) “Elderly” means ~~a person~~ 60 years of age or older.

(e) “Individual with a disability” means a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

(f) “Covered individual” means a person who is either an applicant of, employee of (including an owner or administrator of), or volunteers with, a qualified entity to provide care. ~~has or may have access to a person served by a qualified entity, and:~~

(1) ~~Is a current or prospective employee or volunteer of a qualified entity, or~~

(2) ~~Is a current or prospective owner or operator of a qualified entity.~~

(g) “Criminal offender record information” or “CORI” shall have the meaning set forth in Penal Code sections 11075, subdivision (a), and 13102.

(h) “Department” means the California Department of Justice.

(i) “Authorized applicant agency” or “agency” means an entity approved by the Department to submit the fingerprints of applicants for obtaining criminal offender record information used for the purposes of employment, licensing, or certification.

(j) “Employer” shall have the meaning set forth in Penal Code section 11105.3, subdivision (f), paragraph (2), whether a public, private, for profit, not-for-profit, or voluntary

corporation or organization.

**(k) “Human resource agency” shall have the meaning set forth in Penal Code section 11105.3, subdivision (f), paragraph (3).**

Note: Authority cited: Section 11105.3, Penal Code. Reference: Sections 11105.3, 11075 and 13102, Penal Code.

**Article 2. Procedures for CalVECHS Program Participation**

**§ 402. Enrollment in CalVECHS.**

Any qualified entity **An authorized applicant agency** may apply to enroll in the CalVECHS Program. To enroll in the CalVECHS Program, a qualified entity **an agency** shall submit to the Department via the Agency Authorization Portal or the Applicant Agency Justice Connection portal a completed CalVECHS User Agreement Conditions for Release of Criminal Offender Record Information, BCIA 9017 (Orig. 07/2024), hereby incorporated by reference.

Note: Authority cited: Section 11105.3, Penal Code. Reference: Section 11105.3, Penal Code.

**§ 403. Determination by the Department.**

(a) After the Department receives an agency’s User Agreement for enrollment in the CalVECHS Program, the Department shall determine if the agency is eligible for program participation as a qualified entity, pursuant to Penal Code section 11105.3 and these regulations.

(b) The Department **may shall** deny enrollment to agencies with applicants who are required **by statute** to undergo fingerprint-based state and national criminal history background checks **pursuant to a statute approved by the Federal Bureau of Investigation**, exclusive of section 11105.3 of the Penal Code.

(c) The Department shall notify the agency whether its enrollment in the CalVECHS Program has been approved or denied.

Note: Authority cited: Section 11105.3, Penal Code. Reference: Section 11105.3, Penal Code.

**§ 404. Compliance Audit.**

The Department shall conduct triennial audits of qualified entities to ensure compliance with these regulations.

Note: Authority cited: Section 11105.3, Penal Code. Reference: Section 11105.3, Penal Code.

**Article 3. Procedure for Requesting Criminal Offender Record Information as a Qualified Entity**

**§ 405. CalVECHS Waiver.**

(a) A CalVECHS Waiver Agreement for Release of Criminal Offender Record Information, BCIA 9018 (Orig. 07/2024), hereby incorporated by reference, must be completed and signed prior to fingerprinting and annually thereafter by every covered individual for whom CORI is requested by a qualified entity.

(b) The qualified entity must retain the CalVECHS Waiver Agreement for a minimum of three years or until a successful compliance audit has been assessed by the Department.

Note: Authority cited: Section 11105.3, Penal Code. Reference: Section 11105.3, Penal Code.

**§ 406. Request for Fingerprint-Based Criminal History Record.**

(a) An initial request by a qualified entity for the CORI of a covered individual shall be accompanied by a completed Request for Live Scan Service, BCIA 8016VECHS, (Orig. 07/2024), hereby incorporated by reference.

(b) Alternatively, if an applicant is unavailable to be fingerprinted via Live Scan within the State of California, the applicant shall submit a completed 10-print fingerprint card, Applicant Fingerprint Form, FD-258 (Rev. 11-1-2020) 1110-0046, hereby incorporated by reference.

Note: Authority cited: Section 11105.3, Penal Code. Reference: Section 11105.3, Penal Code.