

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 4.5. CALIFORNIA VOLUNTEER AND EMPLOYEE CRIMINAL HISTORY
SERVICE (CalVECHS) PROGRAM**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

On January 23, 2026, the Department of Justice (DOJ) published an Addendum to Initial Statement of Reasons to explain modifications to these regulations as originally proposed and the reasons for those modifications. These regulations were modified as follows:

Article 1. General

§ 401. Definitions of Key Terms.

Subdivision (a) was amended to specify that a qualified entity is a human resource agency or employer, as they are defined in subdivisions (j) and (k). This amendment is necessary to clarify that the regulations do not expand the pool of entities eligible for CalVECHS participation beyond the limitations of Penal Code section 11105.3.

Subdivision (d) was amended non-substantively to specify that “elderly” refers to a person. This amendment is necessary for clarity and made in response to a comment.

Subdivision (f), paragraphs (1) and (2), was amended to establish who is a “covered individual.” This amendment is necessary because in its administration of the federal criminal history response authorized under United States Code, title 34, section 40102, the Federal Bureau of Investigation (FBI) allows applicants to submit fingerprints only as employees or volunteers and the category of individuals must fit within those terms. Additionally, because Penal Code section 11105.3, subdivision (i) includes administrators in the individuals who must undergo a background check, the amendment clarifies that those involved in the operation as an owner or administrator of qualified entities are considered employees for purposes of these regulations.

These subdivisions were also amended to replace “prospective” with “applicant” in response to a comment. This change was necessary because the term “prospective” employee or volunteer could have been interpreted to be broader than intended. Additionally, this amendment was necessary because using applicant conforms to the terms used in Penal Code section 11105.3.

Subdivision (i) was added to define “authorized applicant agency.” This amendment is necessary to establish a distinction between DOJ approval as an authorized applicant agency and enrollment in the CalVECHS Program, as described in section 402.

Subdivision (j) was added to define “employer.” This amendment is necessary to ensure the definition of “qualified entity” is consistent with the eligibility standards in Penal Code section

11105.3. Because employer can include any other organization as decided by the Attorney General, the definition of an employer also includes any public, private, for profit, not-for-profit, or voluntary cooperation or organization. This definition is necessary because the types of entities that have supervisory or disciplinary power over children can vary and the purpose of the background checks is to protect children.

Subdivision (k) was added to define “human resource agency.” This amendment is necessary to clarify the amended definition of “qualified entity,” consistent with the eligibility standards established in Penal Code section 11105.3.

Article 2. Procedures for CalVECHS Program Participation

§ 402. Enrollment in CalVECHS

This section was amended to clarify that enrollment in the CalVECHS Program is contingent upon approval by DOJ as an authorized applicant agency. This amendment is necessary to distinguish the general applicant agency authorization process, which is not the subject of these regulations, from the CalVECHS enrollment process, which is the subject of these regulations.

§ 403. Determination by the Department.

Subdivision (b) was amended to clarify that DOJ will deny CalVECHS enrollment when an agency’s applicants are already required to undergo fingerprint-based state and national criminal history background checks under a statute other than Penal Code section 11105.3 that has been approved by the FBI for a federal response. This amendment is necessary because agencies may already have a type of applicant that is approved by the FBI to conduct federal background checks, and receive that information, under Public Law 92-544, and if so, they would not fall within the CalVECHS program. These regulations implement the CalVECHS program. Penal Code section 11105.3, subdivision (b) allows DOJ to disseminate federal-level criminal information to qualified entities under the authority of United States Code, title 34, section 40102, which is separate and distinct from FBI review and approval of statutes authorizing access to federal criminal history information for non-criminal justice purposes under Public Law 92-544.

§ 404. Compliance Audit.

This section was not revised in the text. This is an expansion of the description provided in the Initial Statement of Reasons. The purpose of this section is to establish DOJ’s responsibility to complete regular compliance audits. This section is necessary to comply with applicant agency auditing requirements set forth in Penal Code section 11105.3, subdivision (b), and the FBI’s CJIS Security Policy. Auditing applicant agencies is crucial for maintaining the integrity of the systems supporting fingerprint-based criminal history background checks for employment, licensing, and certification, and the FBI requires all state identification bureaus that access the Interstate Identification Index and Next Generation Identification System for non-criminal justice purposes to complete triennial audits of authorized applicant agencies.

This section ensures that CalVECHS participating agencies are audited periodically for adherence to the CalVECHS regulations (e.g., maintenance of the CalVECHS Waiver Agreement). The three-year audit cycle is how DOJ chose to define what “periodically” means.

A three-year audit cycle matches DOJ’s auditing schedule of all authorized applicant agencies and conforms with the requirements of state and federal laws governing CORI security. The FBI requires all state identification bureaus that access the Interstate Identification Index and Next Generation Identification System for non-criminal justice purposes to complete triennial audits of authorized applicant agencies.

SUMMARY OF COMMENTS AND DOJ RESPONSES

DOJ noticed the public on March 7, 2025, of the text of the proposed regulations and Initial Statement of Reasons. In addition to receiving written comments, DOJ held a virtual public hearing on June 19, 2025. From March 7, 2025, through June 19, 2025, DOJ received a combined total of 11 written and oral comments. DOJ received one comment during the 15-day comment period which occurred from January 23, 2026, through February 8, 2026.

Attachment A is a summary of all comments (written and oral) submitted during the 45-day and 15-day public comment periods and public hearing, and DOJ’s responses. Attachment B is a comment index of the commenters and identifies (by number) the comment(s) made by each person.

Some parties included in their written or oral comments observations about, or interpretations of, the proposed rulemaking package or other laws and regulations that were not directed at the proposed action or to the procedures followed in proposing or adopting the action. The Attorney General is not required to respond to such remarks in this Final Statement of Reasons, and does not elect to do so. (Gov. Code, § 11346.9, subd. (a)(3).) The absence of a response from the Attorney General to a comment submitted in this rulemaking, where the comment was not submitted as an objection or recommendation to the proposed action, shall not be construed to mean that the Attorney General concurs with, or approves of, the comment.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

In accordance with Government Code section 11346.9, subdivision (a)(4), DOJ has determined that no alternative it considered, or that it otherwise identified, or was brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

This determination is based on the fact that the proposed regulations are the most effective way to implement the CalVECHS Program and specify procedures for participation by qualified entities.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

DOJ determines that the proposed regulations do not affect small businesses because these regulations only establish procedures for qualified entities to participate in the CalVECHS Program and request the CORI of covered individuals.

DOCUMENTS INCORPORATED BY REFERENCE

1. CalVECHS User Agreement Conditions for Release of Criminal Offender Record Information, BCIA 9017, Orig. 07/2024 (see section 402)
2. CalVECHS Waiver Agreement for Release of Criminal Offender Record Information, BCIA 9018, Orig. 07/2024 (see subdivision (a) of section 405)
3. Request for Live Scan Service (CalVECHS), BCIA 8016VECHS, Orig. 07/2024 (see subdivision (a) of section 406)
4. Applicant Fingerprint Form, FD-258 (Rev. 11-1-2020) 1110-0046 (see subdivision (b) of section 406)

The above forms are incorporated by reference because it would be cumbersome, unduly expensive, or otherwise impractical to publish the forms in the California Code of Regulations. During the rulemaking proceeding, the forms were made available upon request, and were available for viewing on DOJ's website.

NON-DUPLICATION

Some of the regulations may repeat or rephrase, in whole or in part, a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1, subdivision (a)(3).