

Assisters Regulations

§ 6580. Assister Fingerprinting and Criminal Record Checks.

(a) Roles Requiring Fingerprinting

- (1) Except for Agents and Brokers with a current and valid license from the California Department of Insurance, all Individual Assisters must submit fingerprint images and associated criminal history information pursuant to Title 10, California Code of Regulations, Section 6456(a)-(e).

(b) Interim Fitness Determination.

- (1) Before any final determination or certification decision is made based on the criminal record, the Exchange shall comply with the requirements of Title 10, California Code of Regulations, Section 6456(d)-(e).
- (2) If the Exchange finds that an individual whose duties require fingerprinting under paragraph (a) has a potentially disqualifying criminal record under Title 10, California Code of Regulations, Section 6456(d)-(e), the Exchange shall promptly provide the individual with a copy of his or her criminal record pursuant to Penal Code Section 11105(t), notify the individual of the specific disqualifying offense(s) for the interim determination, and provide the individual information on how to request a written appeal, including examples of the types of additional evidence the individual may provide, to dispute the accuracy and relevancy of the criminal record.

(c) Appeal and Final Determination.

- (1)(a) If the individual believes that the potentially disqualifying offense in the Federal Bureau of Investigation national criminal response identified in the notice sent pursuant to paragraph (b)(2) is inaccurate or incomplete, within 60 days from the date of the notice, the individual may seek to correct or complete the response by providing information to the Exchange, including official court and law enforcement records, identifying and correcting the incomplete or inaccurate criminal history information. Upon receipt of such information, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.
- (b) If the individual believes that the potentially disqualifying offense in the California Department of Justice state criminal response identified in the notice sent pursuant to paragraph (b)(2) is inaccurate or incomplete, within 60 days from the date of the notice, the individual shall notify the Exchange and follow the procedures set forth in Penal Code Sections 11120-11127 to correct or complete the criminal response with the DOJ. The fitness determination shall not be final until the DOJ has acted to correct the state criminal response. Upon receipt of the corrected response, the Exchange shall reevaluate the interim fitness

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determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

- (2) If the individual determines that his or her criminal record is accurate, within 60 days from the date of the notice in paragraph (b)(2), the individual may dispute the interim determination by producing additional written evidence of rehabilitation and mitigating circumstances related to any potentially disqualifying offense. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(A) For purposes of reevaluating the interim determination pursuant to paragraph (c)(2), the Exchange shall take into account any of the following:

- i. Any additional evidence of rehabilitation and mitigating circumstances provided by the individual in paragraph (c)(2);
 - ii. Information received as a result of the criminal record check;
 - iii. Information received through the individual's application process for a position requiring fingerprinting in paragraph (a).
 - iv. Information received as a result of the individual's employment history or qualifications for a position requiring fingerprinting in paragraph (a).
- (3) Absent good cause for late filing, the interim fitness determination shall become final.

(d) Costs.

- (1) The Exchange shall pay the costs incurred by individuals whose duties require fingerprinting under paragraph (a) until December 31, 2014.

Note: Authority cited: Sections 100504, Government Code. Reference: Section 100502, Government Code; 45 CFR 155.205, 155.210, and 155.260.