

**D.C. PERSONNEL REGULATIONS
CHAPTER 4
ORGANIZATION FOR PERSONNEL MANAGEMENT**

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D.C. PERSONNEL REGULATIONS

400 VARIATIONS

- 400.1 The Director of the D.C. Department of Human Resources (DCHR) is authorized to grant variations from the letter of the D.C. personnel regulations issued under the authority of the Mayor pursuant to section 404 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04), whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulations.
- 400.2 The Director of the DCHR shall be authorized to grant a variation as specified in section 400.1 of this section if:
- (a) Such a variation is within the spirit of the regulations;
 - (b) The efficiency of the District government is being protected and promoted; and
 - (c) The integrity of the Career, Legal, Excepted, Management Supervisory, or Executive Services, as applicable, is being protected and promoted.
- 400.3 Whenever a variation is granted, the Director of the DCHR shall publish in the District Personnel Manual (or any other procedural manual or manuals developed) an issuance showing the following:
- (a) The particular practical difficulty or hardship involved;
 - (b) The variation being permitted, the difference from the requirements of the regulations, and to whom it applies;
 - (c) The specific circumstances which protect or promote the efficiency of the District government and the integrity of a particular service or services; and
 - (d) The steps that will be taken to limit the application of the variation only to the duration of the conditions that gave rise to it.
- 400.4 Like variations shall be granted whenever like conditions exist.

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401 APPOINTMENT AFFIDAVIT

- 401.1 Each personnel authority shall designate in writing a person or persons authorized to administer the oath of office to each employee of an agency.

- 401.1 As provided in section 408 of the CMPA (D.C. Official Code § 1-604.08) (2001), each covered employee of an agency shall swear or affirm to the following oath of office: “I, (employee’s name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office on which I am about to enter.”
- 401.2 As part of the oath of office, each employee shall execute the following:
- (a) An affidavit stating: “I have not, nor has anyone acting in my behalf, given, transferred, promised, or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment;” and
 - (b) An affidavit on the “Declaration of Appointee Form,” stating: “The answers in the Declaration of Appointee are true and correct and I have read and understand the information thereon.”
- 401.3 The appointee, on the “Declaration of Appointee Form,” shall be required to provide information concerning the following:
- (a) Application for or receipt of an annuity under any District government civilian retirement system, or other compensation based upon District government service; and
 - (b) Certification of notification of the prohibition to strike pursuant to section 1705 of the CMPA (D.C. Official Code § 1-617.05) (2001).
- 401.4 The provision in section 401.3 (a) of this section shall not be applicable to elected officials and members of boards and commissions.
- 401.6 Any individual initially appointed to the District government and any individual reappointed after a break in service of one (1) or more days shall take the oath of office and execute the appointment affidavit as soon as administratively practicable, but not later than thirty (30) days after the effective date of his or her appointment.
- 401.7 Any individual who refuses to swear or affirm to the oath of office as provided in sections 401.2 or 401.6 of this section shall not be appointed or shall have his or her appointment terminated.
- 401.8 The appointment of an employee may become effective before the oath of office (oath) is executed although the employee has no right to continued employment until the oath is executed. The oath, when executed, shall refer to the date of entrance on duty so as to entitle the employee to pay from that date.
- 401.9 An individual who is retroactively restored to duty without a break in service shall not be required to execute a new appointment affidavit.

- 401.10 In the administration of the oath of office (oath), the following shall apply: The oath may be administered on an individual or group basis;
- (a) The person administering the oath shall read the oath aloud to the appointee(s);
 - (b) The appointee(s) taking the oath shall stand, raise his or her right hand, and repeat the oath aloud, except as provided in section 401.11 of this section and with regard to any physical handicap the appointee(s) may have that may necessitate reasonable accommodation;
 - (c) The appointee(s), after taking the oath and in the presence of the person administering the oath, shall sign the appointment affidavit; and
 - (d) The person administering the oath, upon signature by the appointee(s), shall sign the appointment affidavit.
- 401.11 When a group of appointees is taking the oath of office (oath), the person administering the oath may ask the appointees to swear or affirm to the oath by saying “yes” after the oath is read aloud to them.
- 401.12 The oath of office should be administered, if practicable, before the flags of the United States and District of Columbia.
- 401.13 The appointment affidavit shall be filed as a permanent record in each employee’s official personnel folder and a copy filed with the employing agency.

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402 SUITABILITY POLICY

- 402.1 It shall be the policy of the District government to consider persons for employment who are suitable in efficiency, character, conduct, and reputation; and who have the knowledge and ability to perform the duties of the position sought. Pre-employment checks and background checks and investigations shall be conducted, as specified in this chapter, for the purpose of ascertaining applicants’ fitness and suitability in these areas.
- 402.2 Employees in Information Technology Systems positions, as well as appointees to such positions, must be particularly suitable in character, conduct and reputation, because they have access to systems that house financial, proprietary, or sensitive personal data. Any misconduct, illegal action, or inaction on their part could directly compromise the security of the District government. For those reasons, these individuals shall be subject to separate suitability investigations as specified in section 406 of this chapter.
- 402.3 Each personnel authority shall determine, as part of pre-employment checks and background checks and investigations, whether a person being considered for employment is or has been involved in any act that constitutes a reasonable basis for concluding that the person would not faithfully discharge the duties of the position for which he or she is being considered.

- 402.4 No person who advocates the overthrow of the governments of the United States, the District of Columbia, or both by unconstitutional means shall be considered suitable for employment in the District government.

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403 GENERAL PROVISIONS ON SUITABILITY

- 403.1 Except for the provisions in sections 412 through 427 of this chapter, or otherwise provided by law or regulation, any pre-employment check, background check, or background investigation provisions negotiated between the District government and a labor organization shall take precedence over the provisions of this chapter, for employees in a bargaining unit represented by a labor organization, to the extent that there is a difference.
- 403.2 In securing information about individuals as part of pre-employment inquiries or background investigations under this chapter, each individual shall be afforded the necessary rights and protections.
- 403.3 When taking suitability administrative action against an employee under this chapter, personnel authorities shall ensure compliance with the process in section 604 of the CMPA (D.C. Official Code § 1-606.04), Chapter 16 of Subtitle B of Title 6 of the District of Columbia Municipal Regulations (DCMR), or any other applicable law or regulation.
- 403.4 (a) Except as otherwise specified in this chapter, pre-employment checks, background checks, and background investigations shall be initiated after the personnel authority has extended a written tentative job offer to the person selected and, to the extent practicable, before actual employment commences. For the purposes of this chapter, any job offer made under these circumstances is conditional and non-binding on the appropriate personnel authority or employing agency.
- (b) Upon completing the check or investigation, the personnel authority shall complete a review to determine whether a final job offer should be made or denied; or, if the person had begun to work pending the completion of the check or investigation, whether he or she should be retained or employment shall be terminated.
- 403.5 The Mayor may delegate his or her personnel authority, in whole or in part, to subordinate agency heads to conduct suitability checks and background investigations as described in this chapter.

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404 SUITABILITY: APPLICABILITY

- 404.1 The provisions of sections 404 through 408 of this chapter shall apply to persons being considered for employment and employees occupying positions in the:

- (a) Career Service under the authority of section 801 of the CMPA (D.C. Official Code § 1-608.01) (2001), except for candidates for uniformed positions in the Fire and Emergency Medical Services Department and Metropolitan Police Department, who shall be covered by the suitability provisions in Chapter 8 of these regulations;
- (b) Legal Service under the authority of sections 851 through 862 of the CMPA (D.C. Official Code § 1-608.51 through 1-608.62) (2001);
- (c) Excepted Service under the authority of sections 901 through 908 of the CMPA (D.C. Official Code §§ 1-609.01 through 1-609.08) (2001); and
- (d) Management Supervisory Service under the authority of sections 951 through 958 of the CMPA (D.C. Official Code §§ 1-609.51 through 1-609.58) (2001).

404.2 Persons being considered for employment in the Executive Service under the authority of sections 1051 through 1063 of the CMPA (D.C. Official Code §§ 1-610.51 through 1-610.63) shall be subject to pre-employment inquiries and background investigations as prescribed by the Director, DCHR, or in the case of the Director of the DCHR him or herself, as prescribed by the Mayor.

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405 PRE-EMPLOYMENT CHECKS AND BACKGROUND CHECKS AND INVESTIGATIONS

- 405.1 Except as otherwise provided, the pre-employment checks, background checks and investigations, and suitability provisions and processes in this section are separate and distinct from the provisions and processes on criminal background checks, traffic record checks, and suitability for the protection of children and youth contained in sections 412 through 427 of this chapter.
- 405.2 Each personnel authority shall establish the suitability for employment of an appointee by conducting pre-employment checks and background checks and investigations as described in this section. Each personnel authority shall conduct the following pre-employment checks:
- (a) Prior employment checks to verify:
 - (1) Dates of employment;
 - (2) Salary or other compensation received;
 - (3) Titles held and nature of duties performed;
 - (4) Reasons for leaving employment; and
 - (5) Performance;

- (b) Possession of a college degree shall be verified if the education was substituted for experience in qualifying the person for the position;
- (c) Possession of a professional or other type of license shall be verified if it is a prerequisite for employment;
- (d) Possession of a college degree from an accredited school and in the appropriate professional field shall be verified, including semester hours or other measures of credit completed, periods of attendance, type of degree and date conferred, if the degree is required as a job-related qualification standard such as is the case in the professional engineering field;
- (e) Miscellaneous checks such as professional standing and other inquiries may also be conducted, if considered necessary by the personnel authority, and in addition to the pre-employment checks required in this subsection;
- (f) In addition to the pre-employment checks required in this subsection, every new appointee shall be subject to completion of at least three (3) reference checks to ascertain character, reputation, relevant traits and characteristics, and other relevant personal qualities, and whether the reference would recommend the appointee for the position for which he or she is being considered; and
- (g) The three (3) reference checks specified in this subsection shall be made with the appointee's former employer; except that personal references may be utilized instead of, or in addition to, checks with former employers as deemed necessary by the personnel authority.

405.3 Based on the duties of the position, or if required by law or regulation, each personnel authority shall determine which positions, in addition to being subject to the pre-employment checks listed in subsection 405.2, shall be subject to background checks or investigations, or mandatory criminal background checks. The vacancy announcements for such positions, and for positions described in section 406 of this chapter, shall include a statement informing applicants of the specific requirement.

405.4 The Director of the DCHR (or his or her designee) shall publish in the Electronic-District Personnel Manual (or any other electronic procedural manual or manuals developed) positions in subordinate agencies subject to background checks pursuant to subsection 405.2, section 406, and sections 412 through 427 of this chapter, or any other applicable law or regulation.

405.5 Except for a mandatory criminal background check required by law or regulation, a background check under this section shall be conducted in accordance with the following:

- (a) Before conducting the background check, the personnel authority shall determine the degree of sensitivity of the position being filled in order to determine the scope of the check. Based on that determination, the background check may cover, in addition to the requirements in subsection 405.2, the following:

- (1) Additional reference checks;
 - (2) Employment history for a specific number of past years;
 - (3) Highest education completed or last school attended beyond high school;
 - (4) A credit check that adheres to the notification and consent requirements of the federal Fair Credit Reporting Act and any other applicable law or regulation;
 - (5) A traffic record check; or
 - (6) A newspaper/magazine/media search on the appointee; and
- (b) In conducting the background check, a personnel authority shall attempt to verify any derogatory information by seeking it from more than one (1) source, asking former employers and other sources for permission to name them as the source and, as needed, obtaining a written release from the subject, and providing an applicant the opportunity to explain or correct any derogatory information.
- 405.6 Unless otherwise provided by law, regulation, or sections 412 through 427 of this chapter, in filling a position subject to background checks, a check need not be conducted if the appointee is already employed with the District government in a position subject to a background check; and the nature of the personnel action for the new appointment is one (1) of the following:
- (a) Promotion;
 - (b) Demotion;
 - (c) Reassignment; or
 - (d) An appointment or conversion of an employee who has been serving continuously with a District government agency for at least one (1) year in a position or positions under an appointment subject to a background check.
- 405.7 Upon completing a check or investigation in accordance with this section, the personnel authority shall inform the agency of the results, and may make a determination that an appointee is not suitable for employment, and may thereby:
- (a) Deny him or her examination for or appointment to the position for which the person had been considered; or
 - (b) Require that the employing agency terminate the appointee from District government service.

- 405.8 A subordinate agency that has been delegated personnel authority to conduct checks or investigations in accordance with this section shall promptly make the appropriate determination under subsection 405.7 upon completing the check or investigation, and immediately inform the DCHR or other independent personnel authority of the determination, in writing.
- 405.9 Before taking suitability disqualification action against an appointee under this section, and at the discretion of the personnel authority, the person shall be given an opportunity to explain the derogatory information found, in writing, within fifteen (15) days of the notification. The appointee shall provide information to explain any discrepancies, omissions, misinformation, or mitigating circumstances.
- 405.10 The reasons which may be used in making a determination of disqualification of an appointee due to unsuitability may include, but shall not be limited to the following:
- (a) Delinquency or misconduct in prior employment;
 - (b) Criminal, dishonest, or other conduct of a nature that would cause discredit to the District government;
 - (c) A false statement of any material fact, or engagement in deception or fraud in the examination or appointment process;
 - (d) Illegal use of drugs; or
 - (e) Any other legal disqualification for appointment.
- 405.11 In making its determination of disqualification of an appointee due to unsuitability, the personnel authority shall consider the following additional factors, to the extent that these factors are deemed pertinent to the individual case:
- (a) The kind of position for which the person is being considered or in which the person is employed, including its sensitivity;
 - (b) The nature and seriousness of the conduct, occurrence, or information;
 - (c) The circumstances surrounding the conduct or occurrence;
 - (d) The recency of the conduct or information;
 - (e) The age of the appointee at the time of the conduct or occurrence;
 - (f) Contributing social or environmental conditions;
 - (g) The absence or presence of rehabilitation or efforts toward rehabilitation; or
 - (h) In the case of criminal conduct, its relevance or relationship to the duties of the position.

- 405.12 Unless otherwise provided pursuant to law, regulation, or this chapter, an appointment to a position subject to background investigation pursuant to subsection 405.3 shall be subject to investigation for one (1) year from the date of appointment to continue the personnel authority's jurisdiction to investigate the qualifications and suitability of the person after appointment, if needed, and to authorize the personnel authority to require termination when it finds that the employee is not suitable for District government employment, or to take any of the other actions specified in section 407 of this chapter, as applicable.
- 405.13 Unless otherwise provided pursuant to law or regulation, when an appointee is disqualified for any of the reasons listed in subsection 405.10, or for other reasons not listed, the personnel authority, at its discretion, may continue to rely on that determination with regard to subsequent applications for employment to a position in one of the Services listed in subsection 404.1 of this chapter, for a period of not more than three (3) years from the date of determination of disqualification, after which a new background investigation shall be required.
- 405.14 Upon expiration of the three (3) year period under subsection 405.13 of this section, a new background investigation shall be conducted and a re-determination made before the person may be appointed to any position in one of the Services listed in subsection 404.1 of this chapter.

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406 BACKGROUND INVESTIGATIONS FOR INFORMATION TECHNOLOGY SYSTEMS PERSONNEL IN SUBORDINATE AGENCIES

- 406.1 Background investigations shall be conducted for employees and persons being considered for employment in positions associated with the design, use, or operation of District government automated information technology systems.
- 406.2 Notwithstanding any other provision in this chapter, Mayor's Order 2003-136, dated September 25, 2003, delegated personnel authority to subordinate agency heads to conduct background investigations for persons being considered for employment in information technology (IT) systems positions in their agencies. The background investigations for IT personnel shall be conducted as specified in this section.
- 406.3 The Director of the DCHR shall develop procedures to set forth the policies, standards, and criteria for background investigations pursuant to this section, and publish the procedures in the District Personnel Manual (or any other procedural manual or manuals developed).
- 406.4 As specified in the procedures developed by the Director of the DCHR, each subordinate agency head shall be required to inform the DCHR of the results of background investigations conducted pursuant to this section.
- 406.5 An employee for whom a background investigation pursuant to this section was conducted shall not be subject to further background investigation after the effective date of the appointment, except when:

- (a) Derogatory information about the employee, of a nature that may impact the employee's suitability to continue performing the duties of the position, is disclosed to the employing agency or personnel authority by credible source(s); or
 - (b) As a result of a promotion, reassignment, or other position change, the employee moves to a position with higher security requirements, as determined by the employing agency.
- 406.6 Notwithstanding the provisions of section 406.2 of this chapter, the Director of the DCHR shall conduct background investigations for cases described in section 406.5 (a) of this section.

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407 SUITABILITY ACTIONS AGAINST EMPLOYEES INITIATED OR TAKEN BY THE D.C. DEPARTMENT OF HUMAN RESOURCES AND INDEPENDENT PERSONNEL AUTHORITIES

- 407.1 The DCHR and independent personnel authorities covered by this chapter shall initiate, or initiate and take, suitability action against District government employees pursuant to this section and chapter when:
- (a) The DCHR or independent personnel authority, as applicable, makes a determination that the employee provided a materially false statement engaged in deception or fraud in his or her examination or appointment with the District government; or engaged in the falsification of official personnel records;
 - (b) Derogatory information about the employee, of a nature that constitutes an immediate hazard to the agency, the employee concerned, to other employees, or to the detriment of the public health, safety, or welfare, is disclosed by a credible source or independently discovered by the DCHR, independent personnel authority, or the employing agency;
 - (c) Derogatory information about an employee, of a nature that will impact the employee's suitability to continue performing the duties of his or her position, is disclosed by a credible source or independently discovered by the personnel authority or employing agency; or
 - (d) A determination is made to terminate the employment of an employee subject to the provisions on criminal background checks for the protection of children and youth contained in sections 412 through 427 of this chapter because:
 - (1) The employee has failed a criminal background check; or
 - (2) As specified in D.C. Official Code § 4-1501.05a and subsections 419.7 and 426.7 of this chapter, the employee has been convicted of, has pleaded *nolo contendere*, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity for a sexual offense involving a minor.

- 407.2 In the circumstances described in section 407.1 (a) through (c) of this section, the DCHR or independent personnel authority shall:
- (a) Require that the employing agency remove the employee from District government service;
 - (b) In addition to requiring the employee's removal, require that the employing agency cancel any reinstatement eligibility, as applicable; or
 - (c) In addition to the actions in accordance with subsection 407.2 (a) and (b) of this section, deny the employee examination for and appointment to a position in the particular agency for a period of not more than three (3) years from the date of the determination of unsuitability.
- 407.3 In the circumstance described in section 407.1 (d) of this section, the DCHR or independent personnel authority shall not only propose the administrative action to remove an employee who fails the criminal background check, as applicable, but shall also issue the final administrative decision on the removal action. The provisions in subsection 407.2 (b) and (c) of this section shall also apply to an employee terminated pursuant to section 407.1 (d) of this section.
- 407.4 If a determination is made that the suitability violation does not rise to the standard described in section 407.1 (a) of this section, the DCHR or independent personnel authority may require that the employing agency take an administrative action against the employee that is less than removal.
- 407.5 The DCHR or independent personnel authority, as appropriate, shall determine the specific duration of any punitive period imposed under section 407.2 (c) of this section.
- 407.6 Subordinate agencies shall refer any case with circumstances as described in section 407.1 (a) through (c) of this section to the Director of the DCHR.
- 407.7 The DCHR or independent personnel authority shall ensure that any suitability action taken against an employee pursuant to section 407.1 of this section is based on information or documentation that is accurate, timely, relevant, and complete.
- 407.8 Before taking any of the actions listed in sections 407.2 and 407.4 of this section, the employee shall be given an opportunity to explain the derogatory information, in writing, within fifteen (15) days of being notified thereof, to allow the appointee to provide information that would explain any discrepancies, omissions, or misinformation, or mitigating circumstances that may exist which are unknown to the personnel authority or the employing agency.
- 407.9 The review and determination process set forth in section 419 of this chapter shall be followed before taking action under section 407.1 (d) of this section to terminate an employee because he or she failed a criminal background check for the protection of children and youth.

407.10 Any suitability disqualification action against a subordinate agency head shall be taken by the Mayor (or his or her designee).

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408 SUITABILITY RECORDS

408.1 Records and files created and maintained pursuant to sections 405 through 407 of this chapter shall be subject to the following:

- (a) Information related to suitability investigations and suitability actions shall be kept in strict confidence in accordance with this section and with Chapter 31 of these regulations;
- (b) Sources of information shall not be disclosed except as specifically authorized in this chapter and in Chapter 31 of these regulations;
- (c) Reports of investigations conducted by a personnel authority shall not be disclosed to the person investigated, nor may the information be discussed with him or her in a manner that would reveal or permit him or her to deduce the source of the information;
- (d) The restrictions contained in section 408.1 (c) of this section shall not apply to the following:
 - (1) Information of public record; and
 - (2) Information from District government personnel records which could be obtained on request by the subject employee under the provisions of Chapter 31 of these regulations; and
 - (3) Other sources of information in reports of investigation may be disclosed to the subject of the investigation only if the personnel authority obtains the information independently, such as by interviewing the subject, or by obtaining permission, in writing, from the sources named to use the information and to identify the source.

408.2 A subordinate agency head (or his or her designee) delegated personnel authority pursuant to sections 403.5 or 406 of this chapter, shall provide the Director of the DCHR information to document the results of each suitability investigation conducted by the subordinate agency. Unless otherwise specified, the information shall be provided prior to the effective date of appointment of a selectee or appointee.

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412 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – GENERAL PROVISIONS

- 412.1 Pursuant to the Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§ 4-1501.01, *et seq.*), as amended by section 204 of Title II of the Omnibus Public Safety Amendment Act of 2006, effective April 24, 2007 (D.C. Law 16-306; D.C. Official Code § 4-1501.05) (hereinafter jointly referred to as the Act), the Mayor and other personnel authorities subject to these regulations shall be required to conduct criminal background checks and traffic record checks to investigate certain employees and volunteers, and persons being considered for employment with covered child or youth services provider agencies, as specified in sections 412 through 427 and 499 of this chapter.
- 412.2 Each current employee in a covered position shall be subjected to an initial criminal background check beginning within forty-five (45) days of the publication in the D.C. Register of the notice of final rulemaking implementing the criminal background check requirements of the Act. The personnel authority shall notify each current employee in a covered position that he or she shall be subject to an initial criminal background check under the Act prior to conducting any such check.
- 412.3 Each current employee or volunteer in a covered position shall be required to submit to periodic criminal background checks while employed by or volunteering at a covered child or youth services provider agency. The provisions for periodic criminal background checks are specified in section 423 of this chapter.
- 412.4 The Mayor or the appropriate personnel authority shall conduct the criminal background checks under the Act.
- 412.5 Criminal background checks shall be conducted in accordance with Metropolitan Police Department (MPD) and Federal Bureau of Investigations (FBI) policies and procedures and in a FBI-approved environment, by means of fingerprint and National Criminal Information Center checks and procedures.
- 412.6 Agencies subordinate to the Mayor and independent District government agencies that are subject to the Act and these regulations shall cover the costs for criminal background checks and traffic record checks required under the Act.
- 412.7 Personnel authorities shall be responsible for conducting traffic record checks pursuant to the Act, and for developing internal operating procedures for conducting the checks.
- 412.8 Traffic record checks shall be obtained from the traffic records maintained by the D.C. Department of Motor Vehicles.

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413 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – APPLICABILITY

413.1 Criminal background checks for the protection of children and youth shall be required for the following persons:

- (a) Each person being considered for paid employment with a covered child or youth services provider agency, and who is appointed to a position with duties and responsibilities as described in section 416 of this chapter or similar duties and responsibilities;
- (b) Each person being considered for unsupervised voluntary service with duties and responsibilities as described in section 416 of this chapter, or similar duties and responsibilities, in a covered child or youth services provider agency;
- (c) Each paid employee who occupies a position with duties and responsibilities as described in section 416 of this chapter, or similar duties and responsibilities, in a covered child or youth services provider agency;
- (d) Each volunteer in an unsupervised position with duties and responsibilities as described in section 416 of this chapter, or similar duties and responsibilities, in a covered child or youth services provider agency; and
- (e) Any District government employee who serves as a host of a child or youth who participates in the Summer Youth Employment Program within the employee's agency. Such an employee shall be considered a volunteer in an unsupervised position for the purposes of the Act, and shall be subject to a criminal background check, a traffic record check, or both, before he or she is allowed to serve as host for the child or youth.

413.2 Criminal background checks shall not be required for the following persons:

- (a) Persons being considered for compensated or voluntary employment with child or youth services provider agencies that will not bring the persons in direct contact with children or youth;
- (b) Volunteers with covered child or youth services provider agencies who only have supervised contact with children or youth. If applicable, such persons will be required to submit to traffic record checks;
- (c) Persons being considered for compensated or voluntary employment in covered child or youth services provider agencies who have active federal security clearances; and
- (d) Officers and members of the MPD, because current standards for criminal background checks within the MPD exceed the requirements set forth in the Act.

- 413.3 Traffic record checks shall be conducted on employees, and supervised and unsupervised volunteers, and appointees who would be required to drive motor vehicles to transport children or youth in the course of performing their duties at covered child or youth services provider agencies.

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414 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – CHILD OR YOUTH SERVICES PROVIDER AGENCIES

- 414.1 The standard for determining that an agency is a covered child or youth services provider is that as part of its mission, the agency, as a whole or certain components thereof, provides the types of direct services to children or youth, or for the benefit of children or youth, encompassed in the duties and responsibilities listed in section 416 of this chapter:
- 414.2 The following subordinate agencies shall be considered covered child or youth services providers subject to the criminal background check and traffic record check provisions of the Act and these regulations.
- (a) Department of Human Services;
 - (b) Department of Health;
 - (c) Department of Parks and Recreation;
 - (d) Fire and Emergency Medical Services Department (FEMSD);
 - (e) Metropolitan Police Department (MPD);
 - (f) Traffic Safety Administration, within the District Department of Transportation;
 - (g) Office of the State Superintendent of Education;
 - (h) Department of Youth Rehabilitation Services;
 - (i) Department of Employment Services;
 - (j) Department of Mental Health;
 - (k) Child and Family Services Agency;
 - (l) Department of Disability Services;
 - (m) District Department of the Environment, Natural Resources Administration, Fisheries and Wildlife Division, Fisheries Management Branch, Aquatic Resource Education Center;

- (n) D.C. Public Schools; and
- (o) Any other subordinate agency subject to these regulations which, as a result of a permanent or temporary change to its mission such as may be caused by reorganization or any other similar reason shall become a covered child or youth services provider subject to the criminal background check and traffic record check provisions in the Act.

414.3 While not listed in section 414.2 of this section, the provisions of sections 412 through 425 of this chapter shall apply to independent agencies covered by this chapter, such as the D.C. Public Library, which as part of their mission, provide the types of direct services to children and youth, or for the benefit of children and youth, encompassed in the duties and responsibilities listed in section 416 of this chapter. Such independent agencies shall be considered covered child or youth services providers subject to the criminal background check and traffic record check provisions of the Act and these regulations

414.4 The D.C. Department of Human Resources may execute a Memorandum of Understanding to conduct criminal background checks and traffic record checks under the Act for an independent agency considered a covered child or youth services provider.

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415 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – CHALLENGES TO DESIGNATION AS A CHILD OR YOUTH SERVICES PROVIDER AGENCY

415.1 Child or youth services provider agencies may challenge their designation and the requirement to comply with the Act, in writing, to the appropriate personnel authority.

415.2 The submission to the personnel authority shall include information and documentation deemed appropriate by agencies to challenge the designation.

415.3 The personnel authority shall evaluate the information and documentation submitted by an agency, and respond in writing within five (5) days of the receipt of the agency's challenge.

415.4 The decision of the personnel authority shall be final and non-appealable.

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416 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – STANDARDS AND PROCEDURES FOR IDENTIFYING COVERED POSITIONS

416.1 Upon consulting with the head of a covered child or youth services provider agency, the appropriate personnel authority shall identify and determine which positions in the agency shall be covered under the Act. In identifying the covered positions, the personnel authority shall ensure that the duties and responsibilities of each position require the provision of direct services that affect the health, safety, and welfare of children or youth or services for the benefit of children or youth, including but not

limited to at least one (1) of the following duties, responsibilities, and essential functions or tasks:

- (a) Childcare duties;
- (b) Recreational activities;
- (c) Delinquency prevention and control services, including custody, security, supervision, and residential and community support services for committed and detained juvenile offenders;
- (d) Educational activities;
- (e) Individual counseling;
- (f) Group counseling;
- (g) Assessment, case management, and support services;
- (h) Psychiatric and psychological assessment services;
- (i) Developmental, speech, and language evaluation services;
- (j) Diagnostic evaluation and treatment services;
- (k) Childhood development services;
- (l) Medical or clinical services;
- (m) Therapeutic services, including individual and group therapy, and play therapy;
- (n) Prevention and intervention services;
- (o) Mentoring services;
- (p) Youth care services;
- (q) Healthcare services, including medical, behavioral, mental health, dental, vision, nutrition, or developmental services;
- (r) Cultural enrichment services;
- (s) Public safety services, including counseling or education intervention services about safety, crime prevention, fire safety, and youth problem-solving;
- (t) Youth employment services;

- (u) Driving a motor vehicle to transport children or youth; or
- (v) Administrative, support, and maintenance services.

416.2 The following standards shall be applied in identifying positions, compensated or not, which shall be subject to the criminal background check requirement or the traffic record check requirement under the Act:

- (a) The underlying guiding standard to be applied in identifying positions that shall be subject to the criminal background check requirement and traffic record check requirement shall be one of reasonableness, coupled with the standards outlined in paragraphs (b) through (k) of this subsection, as applicable;
- (b) A determination that a position is covered under the Act and subject to the criminal background check requirement shall be based on a comprehensive analysis of the position description or statement of duties, as applicable. The purpose of the analysis shall be to determine if the position description or statement of duties contains at least one (1) of the duties and responsibilities listed in this section or similar duties and responsibilities and that any incumbent of the position will perform the duties and responsibilities personally and routinely;
- (c) Location in a covered child or youth services provider agency does not automatically make a position or its incumbent subject to the criminal background check requirement or the traffic record check requirement of the Act;
- (d) Strictly tangential, casual, or occasional contact with children or youth does not automatically make an employee or volunteer subject to the criminal background check requirement or traffic record check requirement of the Act; except that the personnel authority has discretion to make case-by-case decisions on whether a position is a covered position subject to these rules;
- (e) Administrative, clerical, or technical support positions within the immediate office of the head of a covered child or youth services provider agency, and other components, units, or divisions of the agency that provide non-operational support services shall not be automatically subject to the criminal background check requirement unless the position descriptions or statements of duties, as applicable, contain at least one (1) of the duties and responsibilities listed in this section, or similar duties and responsibilities related to the direct provision of services to children or youth, and a determination is made that incumbents of the positions will perform the duties and responsibilities personally and routinely; except that the personnel authority has discretion to make case-by-case decisions on whether a position is a covered position subject to these rules;
- (f) An employee who is detailed, temporarily promoted, or temporarily reassigned from a non-covered position to a covered position shall be subject to an initial criminal background check upon the effective date of the personnel action, and to

periodic criminal background checks while detailed, temporarily promoted, or temporarily reassigned to the covered position;

- (g) A volunteer whose assignment changes from non-covered duties and responsibilities to covered duties and responsibilities shall be subject to an initial criminal background check upon being moved to the covered assignment and to periodic criminal background checks while in the covered assignment;
- (h) A determination that a position is subject to the traffic record check requirement under the Act shall be based on a comprehensive analysis of the position description or statement of duties, as applicable. The purpose of the analysis shall be to determine if the position description or statement of duties requires that any incumbent of the position drive a motor vehicle, whether the incumbent's personal or government vehicle, to transport children or youth in the course of performing his or her duties;
- (i) An employee who is detailed, temporarily promoted, or temporarily reassigned from a non-covered position to a position that will require him or her to drive a motor vehicle to transport children or youth in the course of performing the duties of the detail, temporary promotion, or temporary reassignment shall be subject to an initial traffic record check upon the effective date of the personnel action;
- (j) A volunteer whose assignment changes from non-covered duties and responsibilities to duties and responsibilities that will require him or her to drive a motor vehicle to transport children or youth in the course of performing the duties of the voluntary assignment shall be subject to an initial traffic record check requirement upon being moved to the covered assignment; and
- (k) Except as specified in subsection 413.2 of this chapter, any position subject to the traffic record check requirement shall also be subject to the criminal background check requirement.

416.3 The Director of the D.C. Department of Human Resources (or his or her designee), shall publish the list of positions in agencies under the personnel authority of the Mayor that are subject to a criminal background check or traffic record check, or both, in the District Personnel Manual (or any other procedural manual developed). The list shall be published at least annually; and republished as needed to delete or add positions.

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417 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – RECRUITMENT

417.1 In the case of competitive recruitment for a position requiring a criminal background check or traffic record check, or both, the vacancy announcement and subsequent offer letter to the appointee shall include statements with the following information:

- (a) That the position for which he or she is applying has been identified and designated as requiring a criminal background check or traffic record check, or both;
 - (b) That, if tentatively selected for the position, a criminal background check or traffic record check, or both, as appropriate, will be conducted; and
 - (c) That the appointee to the position may be offered employment contingent upon receipt of a satisfactory criminal background check or traffic record check, or both.
- 417.2 In the case of non-competitive recruitment for a position requiring a criminal background check or traffic record check, or both, the offer letter to the person being considered for employment shall inform the person of the requirements specified above for competitive recruitment actions.
- 417.3 Subject to the approval of the personnel authority, an appointee to a compensated position with a covered child or youth services provider agency may be offered employment contingent upon receipt of a satisfactory criminal background check or traffic record check, or both, and begin working in a supervised setting, prior to receiving the results of the checks, and prior to the employing agency making a determination that the appointee meets the requirements of the Act.

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418 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH-AUTHORIZATION PROCESS

- 418.1 Prior to a criminal background check being conducted, the appropriate personnel authority will inform each appointee, employee, or unsupervised volunteer subject to the check of the location of the office where the check will be conducted; when to report for fingerprinting; and provide each appointee, employee, or unsupervised volunteer with a form or forms to be utilized for the following purposes:
- (a) To authorize the MPD or other entity, as appropriate, to conduct the criminal background check and confirm that the appointee, employee, or unsupervised volunteer has been informed that the employing agency is authorized to conduct a criminal background check;
 - (b) To complete a signed affirmation stating whether or not the appointee, employee, or unsupervised volunteer:
 - (1) Has or has not been convicted of any of the offenses listed in paragraphs (c)(1) through (9) of this subsection, or their equivalent, either in the District of Columbia, or in any state or territory;
 - (2) Has or has not pleaded nolo contendere to any of the criminal offenses listed in paragraphs (c)(1) through (9) of this subsection, or their equivalent, either in the District of Columbia, or in any state or territory;

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- (3) Is or was on probation before judgment or had a case placed upon a stet docket for any case involving any of the criminal offenses on the list in paragraphs (c)(1) through (9) of this subsection, or their equivalent, in the District of Columbia, or in any state or territory; and
 - (4) Has or has not been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District of Columbia, or for any of the criminal offenses listed in paragraphs (c)(1) through (9) of this subsection, either in the District of Columbia, or in any state or territory;
- (c) The list of offenses referred to in paragraphs (b)(1) through (4) of this subsection relating to the signed affirmation to be completed by the appointee, employee, or unsupervised volunteer is as follows:
- (1) Murder, attempted murder, manslaughter, or arson;
 - (2) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement or threats to do bodily harm;
 - (3) Burglary;
 - (4) Robbery;
 - (5) Kidnapping;
 - (6) Illegal use or possession of a firearm;
 - (7) Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
 - (8) Child abuse or cruelty to children; or
 - (9) Unlawful distribution or possession of or possession with intent to distribute a controlled substance;
- (d) To acknowledge, in writing, that the appointee, employee, or unsupervised volunteer has been notified of his or her right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report;
- (e) To acknowledge that the employing agency may choose to deny the appointee employment or an unsupervised volunteer position, or to terminate an employee or volunteer, based on the outcome of the criminal background check;

- (f) To provide any additional identification that is required, such as name, social security number, date of birth, and gender; and
- (g) To inform the appointee or employee that a false statement on the form or forms may subject the appointee or employee to criminal penalties.

418.2 Upon receiving and completing the form or forms specified in this section, the appointee or employee shall report to the designated location to be fingerprinted.

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419 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – REVIEW AND DETERMINATION PROCESS

419.1 The Mayor’s authority to make suitability determinations under this section is delegated to the D.C. Department of Human Resources (DCHR) and independent personnel authorities, as appropriate.

419.2 Upon completing each criminal background check, the designated MPD representative, or the representative for any other entity conducting the check, shall forward the criminal background check to the DCHR or independent personnel authority, as appropriate.

419.3 Upon receipt of the criminal background check, the DCHR or independent personnel authority shall complete a review and determination process as specified in this section.

419.4 The DCHR or independent personnel authority shall conduct an initial review of the criminal background check to determine if the appointee or employee has a criminal record, including any of the proscribed offenses, and determine if there are any charges with no clear disposition.

419.5 The information obtained from a criminal background check shall not immediately disqualify or create a presumption against employment or volunteer status of an appointee, employee, or unsupervised volunteer with a criminal record, including a proscribed offense, unless the DCHR or independent personnel authority determines that because of such criminal record, the person would pose a present danger to children or youth that makes him or her unsuitable for paid employment or unsupervised voluntary service in a covered position. This determination shall be made based on the following seven (7) factors:

- (a) The specific duties and responsibilities necessarily related to the employment sought;
- (b) The bearing, if any, the criminal offense for which the appointee was previously convicted will have on his or her fitness or ability to perform one (1) or more of the duties or responsibilities of the position;
- (c) The time which has elapsed since the occurrence of the criminal offense;

- (d) The age of the appointee at the time of the occurrence of the criminal offense;
- (e) The frequency and seriousness of the criminal offense;
- (f) Any information produced by the appointee, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct since the occurrence of the criminal offense; and
- (g) The public policy that is beneficial generally for ex-offenders to obtain employment.

419.6 When there is a discovery of charges with no clear disposition, the DCHR or independent personnel authority shall:

- (a) Contact the appointee or employee and inform him or her of the charges with no clear disposition contained in the criminal background check;
- (b) Provide written notice to the appointee or employee that he or she has seven (7) business days to provide to the DCHR or independent personnel authority the necessary information concerning the final disposition of the charge(s), including an appointee's/employee's parole or probation status, if applicable, and any other information that the employee deems relevant; and
- (c) Determine whether or not the information submitted by the appointee or employee resolves the charges with no clear disposition.

419.7 Notwithstanding the seven (7) factors listed in subsection 419.5 of this section, a covered District government agency shall terminate the employment of current employees, and shall not employ or permit to serve as unsupervised volunteers, persons who have been convicted of, have pleaded nolo contendere, or who are, or have ever been on probation before judgment or placement of any case upon a stet docket, at any time, or have been found not guilty by reason of insanity for any sexual offenses involving a minor.

419.8 When the DCHR or independent personnel authority resolve criminal background check information issues, the DCHR or independent personnel authority shall make the final suitability determination whether:

- (a) In the case of an appointee (new hire), a final offer of appointment should be made or denied;
- (b) In the case of an unsupervised volunteer, he or she shall be allowed to provide the volunteer services;

- (c) A person newly appointed to a compensated position who had begun to work in a supervised setting prior to receiving the results of the check should be retained or employment shall be terminated; or
 - (d) A current employee shall be retained or employment shall be terminated.
- 419.9 The DCHR or independent personnel authority shall notify the employing agency of the final suitability determination.
- 419.10 If the determination of the DCHR or independent personnel authority is that a final offer of appointment should be made to an appointee, the final offer letter shall be promptly issued.
- 419.11 If the DCHR or independent personnel authority determines that an employee is unsuitable to serve in a safety-sensitive position and that he or she should be terminated because of a failed criminal background check, the termination action shall be in accordance with the employee's type of appointment (*i.e.*, Career Probational/Permanent, term appointment, etc.) and service (*i.e.*, Career Service, Management Supervisory Service, etc.), and the applicable legal and regulatory provisions governing adverse actions, including but not limited to terminations for cause pursuant to Chapter 16 of Subtitle B of Title 6 of the DCMR, or other provisions under a collective bargaining agreement (CBA), if any. The final suitability determination may be appealed to the Office of Employee Appeals within thirty (30) days of the determination of unsuitability.
- 419.12 In completing the review and determination process of traffic records checks, records of traffic infractions shall be judged on an individual basis for appointees whose duties would include driving a motor vehicle to transport children or youth as described in the Act. A pattern of disregard for existing traffic regulations, particularly where there has been a conviction for driving under the influence of intoxicants or drugs, may make the appointee unsuitable for employment or voluntary service, if the appointee could be required to drive a motor vehicle to transport children or youth in the course of performing his or her duties.
- 419.13 A final suitability determination by the DCHR or independent personnel authority on a criminal background check or traffic record check pursuant to this section shall be the final agency decision; except that in the case of a Career Service employee terminated under Chapter 16 of Subtitle B of Title 6 of the DCMR or any other provisions under a CBA, the employee shall have appeal rights as specified in that chapter, or under the relevant CBA, as applicable.

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420 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR PROTECTION OF CHILDREN AND YOUTH-CHALLENGE PROCESS

- 420.1 This section shall govern the procedures for challenging suitability determinations pursuant to the Act.

- 420.2 In accordance with subsection 419.11 of this chapter, termination action shall be taken against an employee pursuant to the statutory and regulatory provisions that apply to the employee's type of appointment, specifically as follows:
- (a) Termination action taken against a covered employee in the Career Service shall be in accordance with section 801 of the CMPA (D.C. Official Code § 1-608.01) and Chapters 8 and 16 of Subtitle B of Title 6 of the DCMR;
 - (b) Termination action taken against a covered employee in the Legal Service shall be in accordance with section 856 of the CMPA (D.C. Official Code § 1-608.56) and Chapter 36 of Subtitle B of Title 6 of the DCMR;
 - (c) Termination action taken against an employee in the Excepted Service shall be in accordance with section 905 of the CMPA (D.C. Official Code § 1-609.05) and Chapter 9 of Subtitle B of Title 6 of the DCMR; and
 - (d) Termination action taken against a covered employee in the Management Supervisory Service shall be in accordance with section 954 of the CMPA (D.C. Official Code § 1-609.54) and Chapter 38 of Subtitle B of Title 6 of the DCMR.
- 420.3 As applicable, within thirty (30) days of the effective date of final agency action on a criminal background check or traffic record check performed pursuant to the provisions in this chapter, a Career Service employee in a covered position may appeal the final agency decision, or an adverse action for cause that results in his or her removal, to the Office of Employee Appeals, pursuant to section 603 of the CMPA (D.C. Official Code § 1-606.03) and Chapter 6 of Subtitle B of Title 6 of the DCMR.
- 420.4 As applicable, Chapter 16 of Subtitle B of Title 6 of the DCMR shall apply to employee grievances and adverse actions brought as a result of determinations made in accordance with the provisions of this chapter.
- 420.5 An employee claiming to be aggrieved by an unlawful discriminatory practice on the part of District government agencies, officials, or employees may elect to file an administrative complaint under the rules of procedure established by the Office of Human Rights pursuant to D.C. Official Code §§ 2-1401.01, *et seq.*
- 420.6 An applicant or appointee who alleges an unlawful discriminatory practice on the part of District government agencies, officials, or employees may elect to file a private cause of action in a court of competent jurisdiction, or an administrative complaint under the rules of procedure established by the Office of Human Rights pursuant to D.C. Official Code §§ 2-1401.01, *et seq.*, in accordance with subsection 420.5 of this chapter.

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421 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – PENALTY FOR PROVIDING FALSE INFORMATION

- 421.1 An appointee to a position subject to the Act who, in the course of applying for a position, intentionally provides false information that is material to the application shall be subject to prosecution pursuant to D.C. Official Code §§ 4-1501.09 and 22-2405.

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422 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – APPLICATION BY VOLUNTEERS TO MULTIPLE COVERED UNSUPERVISED POSITIONS

- 422.1 A volunteer in an unsupervised position may use the same successful criminal background check conducted on him or her for a period of two (2) years when applying for multiple unsupervised volunteer positions, if the volunteer provides a signed affirmation stating whether or not he or she has been convicted of a crime, has pleaded nolo contendere, is or ever has been on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District of Columbia or their equivalent in any other state or territory, or for any of the felony offenses listed in subsection 418.1(c)(1) through (9) of this chapter, or their equivalent in any other state or territory, since the date of the most recent check.

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423 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – PERIODIC CRIMINAL BACKGROUND CHECKS

- 423.1 A periodic criminal background check for each current employee and unsupervised volunteer occupying a covered position shall be conducted within two (2) years of the required initial criminal background, and every two (2) years thereafter. Each employee or unsupervised volunteer subject to the check shall complete the signed affirmation described in section 418 of this chapter prior to submitting to the periodic criminal background check.
- 423.2 In addition to the two-year (2-year) periodic criminal background check, a criminal background check shall be conducted when:
- (a) Derogatory information about an employee or unsupervised volunteer, of a nature that will impact their suitability to continue performing the duties of their covered positions, is disclosed to the employing agency or personnel authority by a credible source or sources, or is independently discovered by the employing agency or personnel authority; or
 - (b) Information about a criminal offense committed by the employee or unsupervised volunteer, such as the criminal offenses listed in section 418 of this chapter, is disclosed to the employing agency or personnel authority by a credible source or sources, or is independently discovered by the employing agency or personnel authority.

- 423.3 Separate from the requirements for periodic criminal background checks described in this section, each covered employee and unsupervised volunteer shall disclose to his or her supervisor any arrest, conviction of a crime, plea of nolo contendere, probation before judgment or placement of a case upon a stet docket, or if he or she has been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District of Columbia or their equivalent in any other state or territory, or for any of the felony offenses listed in subsection 418.1 (c)(1) through (9) of this chapter, or their equivalent in any other state or territory, immediately after any of these actions occur.
- 423.4 As applicable, the employing agency shall inform the personnel authority of any employee who fails to make disclosure as specified in this section. The personnel authority shall conduct an evaluation for suitability, determine if administrative action against the employee is warranted, and notify the agency of the course of action that shall be taken.
- 423.5 An employee who intentionally misinforms or misleads the personnel authority when completing a signed affirmation, fails a periodic criminal background check, or fails to make disclosure in accordance with subsection 423.3 of this chapter may be subject to administrative action. In determining the type of administrative action to be taken, the seven (7) factors in subsection 419.5 of this chapter shall be considered, if applicable, as well as any other similar factors and variables; except that a failing criminal background check or an employee disclosure reflecting that the employee has been convicted of, has pleaded nolo contendere, is or has ever been on probation before judgment of a case on a stet docket, or has been found not guilty by reason of insanity for any sexual offenses involving a minor shall result in removal.
- 423.6 In addition to, or in the place of administrative action, an employee who fails a periodic criminal background check may be reassigned to a non-covered position; except that this option shall not be available for an employee whose criminal background check reflects that he or she has been convicted of, has pleaded nolo contendere, is or has ever been on probation before judgment or placement, or ever had a case placed upon a stet docket, or has ever been found not guilty by reason of insanity for any sexual offenses involving a minor.
- 423.7 An unsupervised volunteer who fails a periodic criminal background check may be terminated or moved to another volunteer assignment that does not include the provision of direct services to children or youth. In determining the type of action to be taken, the personnel authority shall consider the seven (7) factors listed in subsection 419.5 of this chapter, as applicable; except that a criminal background check reflecting that the unsupervised volunteer has been convicted of, has pleaded nolo contendere, is or has ever been on probation before judgment or placement or ever had a case placed upon a stet docket, or has ever been found not guilty for reason of insanity for any sexual offenses involving a minor shall result in the termination of the voluntary services.

- 423.8 In the case of an agency that violates any of the provisions of the Act, the Mayor (or his or her designee) or personnel authority may take administrative action, or direct that administrative action be taken, against the agency head or other agency official who violated the Act.

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424 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – CONFIDENTIALITY PROVISIONS

- 424.1 Criminal background check records obtained under this section shall be confidential and shall be for the exclusive purpose of making employment-related determinations under sections 412 through 427 of this chapter. Absent a court order from the U.S. District Court or Superior Court, the criminal background data (rap sheet) from the FBI or MPD, shall not be released to any person. Other records relied upon to determine the employee's or appointee's employment suitability shall not be released or otherwise disclosed to any person, except when:

- (a) Required as one component of an application for employment with a covered child or youth services provider that is subject to these rules;
- (b) Requested by the personnel authority during an official inspection or investigation;
- (c) Ordered by a court;
- (d) Authorized by the written consent of the person being investigated; or
- (e) Utilized for an administrative action in a personnel proceeding, including but not limited to, disciplinary actions under Chapter 16 of Subtitle B of Title 6 of the DCMR.

- 424.2 An individual who discloses confidential information in violation of any of the provisions in section 424.1 shall be guilty of a criminal offense and, upon conviction, pursuant to D.C. Official Code § 4-1501.10, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one hundred eighty (180) days, or both.

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425 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – REPORTING REQUIREMENTS

- 425.1 As applicable, the Director of the D.C. Department of Human Resources, and each independent personnel authority for agencies considered covered child or youth services providers under the Act, shall prepare compliance reports every six (6) months beginning on the date that these regulations are effective. Each report shall be submitted to the Mayor and shall include:

- (a) The number of criminal background checks and traffic record checks conducted for appointees, the number of appointees who were hired upon completion of the check, and the number rejected; and
- (b) The number of periodic criminal background checks conducted for employees and unsupervised volunteers, and any administrative action initiated or taken upon completion of the periodic checks.

425.2 On an annual basis by December 1st of every year, subordinate and independent agencies considered covered child or youth services providers under the Act shall submit, directly to the Mayor, a list with each position in the agency which has been identified as a covered position subject to the criminal background check requirement.

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426 CRIMINAL BACKGROUND AND TRAFFIC RECORD CHECKS FOR THE PROTECTION OF CHILDREN AND YOUTH – CONCURRENT LIMITED PERSONNEL AUTHORITY DELEGATED TO THE CHIEF OF THE FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

426.1 Notwithstanding any other provisions of this chapter, Mayor's Order 2009-166, dated September 28, 2009, delegated to the Chief of the Fire and Emergency Medical Services Department (FEMSD), and to the Director of the DCHR, limited concurrent personnel authority of the Mayor under the Act, concurrent with the authority previously delegated to the Director of the DCHR by Mayor's Order 2007-95, dated April 18, 2007.

426.2 Specifically, under Mayor's Order 2009-166, the Chief of the FEMSD is delegated limited concurrent personnel authority to:

- (a) Obtain and evaluate the information obtained from traffic record checks and criminal background checks conducted pursuant to the Act and consider the factors listed in the Act to determine whether a covered FEMSD employee or person being considered for compensated or voluntary employment with the FEMSD poses a present danger to children or youth; and
- (b) Recommend to the DCHR suitability determinations.

426.3 The Chief of FEMSD may further delegate this authority to a subordinate within the FEMSD.

426.4 Upon completing each criminal background check for the FEMSD, the designated MPD representative, or the representative for any other entity conducting the check, shall forward the criminal background check to both the DCHR and FEMSD.

426.5 Upon receipt of the criminal background check, appropriate staff within the FEMSD, with the assistance of the DCHR, shall complete a review and determination process following the procedures set forth in section 419 of this chapter and in this section.

- 426.6 The FEMSD, with the assistance of the DCHR, shall conduct an initial review of the criminal background check information to determine if the appointee or employee has a criminal record, including any of the proscribed offenses, and determine if there are any charges with no clear disposition.
- 426.7 As set forth in subsection 419.5 of this chapter, the information obtained from a criminal background check shall not immediately disqualify or create a presumption against employment or volunteer status of an appointee, employee, or unsupervised volunteer with a criminal record, including a proscribed offense, unless the DCHR determines that because of such criminal record, the person would pose a present danger to children or youth that makes him or her unsuitable for paid employment of unsupervised voluntary service in a covered position. This determination shall be made based on the following seven (7) factors set forth in subsection 419.5 of this chapter:
- 426.8 When there is a discovery of charges with no clear disposition, the FEMSD shall follow the process set forth in subsection 419.6 of this chapter to resolve the disposition of the charges.
- 426.9 Notwithstanding the seven (7) factors listed in subsection 419.5 of this chapter, and pursuant to section 205a of the Act (D.C. Official Code § 4-1501.05a), persons who have been convicted of, have pleaded nolo contendere, are on probation before judgment or placement of a case upon a stet docket, or have been found not guilty by reason of insanity for any sexual offenses involving a minor shall not be employed (compensated employment) by the FEMSD, allowed to serve as unsupervised volunteers with the FEMSD, or continue employment with the FEMSD. In the case of current FEMSD employees whose employment is to be terminated because of any of these circumstances, the process set forth in section 407 of this chapter shall apply.
- 426.10 After all criminal background check information issues have been resolved, the DCHR shall make the final suitability determination whether:
- (a) A final offer of appointment should be made or denied to a FEMSD appointee (new hire);
 - (b) An unsupervised FEMSD volunteer shall be allowed to provide volunteer services;
 - (c) A person newly appointed by the FEMSD to a compensated position who had begun to work in a supervised setting prior to receiving the results of the check should be retained or employment shall be terminated; or
 - (d) A current FEMSD employee shall be retained or employment shall be terminated.
- 426.11 The DCHR shall notify the FEMSD of the final suitability determination. If the determination of the DCHR is that a final offer of appointment should be made to an appointee, the final offer letter shall be promptly issued.

- 426.12 If the DCHR makes a determination to terminate employment because of a failed criminal background check, it shall follow the procedures set forth in subsection 419.11 of this chapter.
- 426.13 In completing the review and determination process of traffic record checks, the DCHR shall rely on the criteria set forth in subsection 419.12 of this chapter for the review and determination process.
- 426.14 A final suitability determination by the DCHR on a criminal background check or traffic record check pursuant to this section that results in termination of employment within the FEMSD shall be the final agency decision; except that in the case of a Career Service employee terminated under Chapter 16 of Subtitle B of Title 6 of the DCMR or any other provisions under a CBA, the employee shall have appeal rights as specified in those regulations or chapter, or under the relevant CBA.

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427 PROCEDURES GOVERNING SUITABILITY APPEAL ACTIONS BEFORE THE COMMISSION ON HUMAN RIGHTS

- 427.1 The following procedures shall govern administrative appeals of suitability decisions that are currently pending before the Commission on Human Rights (Commission) under the Act.
- (a) The Commission shall have subject matter jurisdiction regarding appeals of suitability decisions made by the DCHR or an independent personnel authority under the Act.
 - (b) Pursuant to D.C. Official Code § 2-502(8)(B), the selection or tenure of an officer or employee of the District is not a contested case under the D.C. Administrative Procedure Act.
- 427.2 The following procedures shall govern the time and manner of filing administrative appeals of suitability decisions before the Commission under the Act:
- (a) If an applicant or volunteer to a position with the District government is denied employment because of information obtained from a criminal background check conducted pursuant to these rules, the applicant or volunteer may file an appeal with the Commission within thirty (30) days of receipt of service of the personnel authority's final decision denying employment to the applicant or volunteer on grounds of unsuitability;
 - (b) The Petitioner's Notice of Appeal may be filed on a form approved by the Commission and delivered to the Office of Human Rights, 441 Fourth Street, N.W., 570 North, Washington, D.C. 20001. At a minimum, the Notice of Appeal shall contain the following information:
 - (1) The name of the Petitioner who seeks review and the date of appeal;
 - (2) A copy of the final decision or agency written decision being appealed;

- (3) A statement of the reasons why the written decision is being appealed; and
 - (4) The name of the agency respondent and/or agency representative.
- (c) Petitioner shall also complete any other forms approved and required by the Commission that may be needed to resolve the appeal;
 - (d) Petitioner shall attach a signed certificate of service to the Notice of Appeal and serve it on the General Counsel of the DCHR or on the General Counsel of the independent personnel authority a copy of the Notice of Appeal, as well as all other forms that the Commission requires the Petitioner to complete; and
 - (e) The filing of a Notice of Appeal shall not operate to stay the enforcement or implementation of the suitability decision issued by the DCHR or any other independent personnel authority.

427.3 The following procedures shall be followed after a Notice of Appeal is filed:

- (a) Within thirty (30) days from the date of service of the Notice of Appeal upon the DCHR or independent personnel authority, the personnel authority shall certify and file with the Commission the entire agency suitability record for the petitioner, including copies of original papers comprising that record, and shall notify the petitioner of the date on which the record is filed;
- (b) In addition to providing the Commission with a copy of a certified record, the personnel authority shall complete any forms approved and required by the Commission that may be needed to resolve the appeal;
- (c) The Commission may not consider any evidence that was not made a part of the agency record or considered by the DCHR or the personnel authority;
- (d) The pages of the agency record shall be numbered sequentially, and the documents included shall be listed in an index;
- (e) If the personnel authority is precluded by law or any other privilege from including confidential information or documents in the agency record that will be filed with the Commission, it shall briefly and succinctly state the document that is being withheld and set forth the legal basis for not including the document in the record;
- (f) Upon the expiration of thirty (30) days after the filing of the complete agency record, or the time that the record is due to be filed, whichever shall occur first, the Chief Administrative Law Judge shall assign the case to an Administrative Law Judge who is to review the matter;
- (g) Within sixty (60) days of receiving the agency record, the assigned Administrative Law Judge shall submit a proposed decision to the Commission

for review and approval for issuance as the final Commission determination on the personnel authority's decision;

- (h) Within ninety (90) days of receiving the complete agency record, the assigned Administrative Law Judge shall issue the Commission's determination in a written decision that affirms the personnel authority's decision, or remands the case to the personnel authority for final administrative action. Unless clearly erroneous as a matter of law, the Commission shall affirm the proposed decision issued by the Administrative Law Judge;
- (i) The Commission, for good cause shown, may shorten or extend the periods set forth in this specific section;
- (j) The Administrative Law Judge assigned to review the administrative appeal has the discretion to establish a briefing schedule for the parties to brief or provide information on any relevant issue or fact that is being considered on appeal; and
- (k) A petitioner may voluntarily withdraw an appeal before the Commission at any time before the Commission takes final action on the appeal. The respondent may also move to involuntarily dismiss the appeal on any legal ground that is based in law or equity.

427.4 The standard of review and procedures that shall govern determinations on the administrative record for suitability appeals filed with the Commission are as follows:

- (a) The standard of review of the suitability decision by the DCHR or independent personnel authority is limited. The Commission shall base its decision exclusively upon the administrative record and shall not set aside the action of the DCHR or the independent personnel authority if supported by substantial evidence in the record as a whole and not clearly erroneous as a matter of law;
- (b) In determining whether the agency's decision is supported by substantial evidence, the Commission shall examine the record to determine whether the personnel authority considered the factors set forth in section 419 of these regulations when the personnel authority rendered its decision;
- (c) If the Commission determines that the decision by the personnel authority is supported by substantial evidence, or is not clearly erroneous as a matter of law, then the Commission shall issue a written decision that affirms the personnel authority's decision;
- (d) If the Commission finds that the decision by the personnel authority is not supported by substantial evidence, the Commission shall issue a decision, in writing, remanding the case to the personnel authority to determine whether the action taken is still appropriate based on the evidence;
- (e) Upon receipt and review of the Commission's decision, the DCHR or the

independent personnel authority will issue a final decision without further appeal to the Commission or any Court. This final decision by the DCHR or the independent personnel authority shall be in writing, and a copy of this final decision shall be served on petitioner;

- (f) The Commission may dismiss an appeal *sua sponte*, or upon motion of a party, for any of the following reasons:
 - (1) The DCHR or independent personnel authority has not rendered a criminal background suitability decision, and thus the appeal is premature;
 - (2) Untimely filing of notice of appeal;
 - (3) Petitioner voluntarily withdraws appeal before the Commission issues its written decision;
 - (4) Any other reasons grounded in law or equity; and
- (g) The Commission does not have the authority or power to award attorney fees, damages, or injunctive relief in any suitability case or appeal.

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499 DEFINITIONS

499.1 When used in this chapter, the following terms have the meaning ascribed:

Administrative action – official reprimands, suspensions, reductions in grade, or removals under the corrective and adverse action provisions for the Career Service contained in Chapter 16 of Subtitle B of Title 6 of these regulations; and other similar penalties, up to and including removal, for employees in services other than the Career Service.

Agency – any unit of the District of Columbia government, excluding the courts, required by law, by the Mayor of the District of Columbia, or by the Council of the District of Columbia to administer any law, rule, or any regulation adopted under authority of law. The term “agency” shall also include any unit of the District of Columbia government created by the reorganization of one (1) or more of the units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency.

Applicant – for the purposes of sections 412 through 427 of this chapter, a person who has filed a résumé or written or electronic (web-based) application for employment with a covered child or youth services provider agency; or a person who has made an affirmative effort through written application, résumé, or a verbal request to serve in an unsupervised volunteer position with a covered child or youth services provider agency.

Appointee – for the purposes of sections 404 through 427 of this chapter, a person who has been made a tentative job offer to a covered position, compensated or voluntary, subject to the satisfactory completion of a criminal background check or traffic record check, or both.

Background investigation – thorough inquiry into the past and present conduct and behavior of an applicant to determine his or her suitability for appointment or continuing employment in a covered position in the District government.

Children – for the purposes of sections 412 through 427 of this chapter, persons twelve (12) years of age and under.

Covered assignment – for the purposes of sections 412 through 427 of this chapter, tasks of an applicant, appointee, or volunteer with a covered child or youth services provider agency which require the provision of direct services that affect the health, safety, and welfare of children or youth, including but not limited to the duties and responsibilities listed in section 416 of this chapter.

Covered child or youth services provider – for the purposes of sections 412 through 427 of this chapter, any District government agency, or a component of a District government agency, such as an office, unit, or division, including the agencies listed in section 414 of this chapter, that provides direct services that affect the health, safety, and welfare of children or youth, including individual and group counseling, therapy, case management, supervision, or mentoring. These services are provided either directly or for the benefit of children or youth.

Covered duties and responsibilities – for the purposes of sections 412 through 427 of this chapter, duties and responsibilities of a volunteer in a covered child or youth services provider agency that require the volunteer to provide direct services that affect the health, safety, and welfare of children or youth or services for the benefit of children or youth, including but not limited to the duties and responsibilities listed in section 416 of this chapter.

Covered position – for the purposes of sections 412 through 427 of this chapter, a position, compensated or voluntary, in a covered child or youth services provider agency with duties and responsibilities that would require the employee, applicant, appointee, or volunteer to provide direct services that affect the health, safety, and welfare of children or youth or services for the benefit of children or youth, including but not limited to the duties and responsibilities listed in section 416 of this chapter.

Criminal background check – the investigation of a person’s criminal history through the record systems of the FBI or MPD.

Days – calendar days, unless otherwise indicated.

Disposition – the court’s final determination of a lawsuit or criminal charge.

Employee – an individual who performs a service for the District government and who receives compensation for the performance of such service.

Independent agency – any board or commission of the District of Columbia government not subject to the administrative control of the Mayor.

Material – a statement that is capable of influencing, or has a natural tendency to affect, an official decision.

Non-covered duties and responsibilities – for the purposes of sections 412 through 427 of this chapter, duties and responsibilities of an applicant, appointee, or volunteer in a covered child or youth services provider agency of such a nature that would not require that the individual be subjected to the criminal background check and traffic record check requirements of the Act.

Non-covered position – for the purposes of sections 412 through 427 of this chapter, a position, compensated or voluntary, in a child or youth services provider agency with duties and responsibilities of such a nature that would not require that the employee or volunteer be subjected to the criminal background check and traffic record check requirements of the Act.

Person being considered for employment – for the purposes of sections 412 through 427 of this chapter, a person who has been made a tentative offer of employment, compensated or voluntary, to a covered position, subject to the satisfactory completion of a criminal background check or a traffic record check, or both.

Personnel authority – an individual or entity with the authority to administer all or part of a personnel management program as provided in Title IV of the CMPA (D.C. Official Code §§ 1-604.01, *et seq.*).

Subordinate agency – any agency under the direct administrative control of the Mayor, including but not limited to, the agencies listed in section 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)).

Substantial evidence – the degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion of an administrative board or agency, even though other reasonable persons might disagree. Under the substantial evidence rule, the reviewing tribunal will defer to an agency determination so long as, upon an examination of the whole record, there is substantial evidence upon which the agency could reasonably base its decision.

Suitability – the quality or state of being acceptable for District government employment with respect to the character, reputation, and fitness of the person under consideration.

Volunteer – for the purposes of sections 412 through 427 of this chapter, any person who performs work without any monetary or other financial compensation, in a covered position, for a covered child or youth services provider agency; or an employee of the District government who volunteers his or her services as a host of a child or youth participating in the Summer Youth Employment Program within his or her agency.

Youth – for the purposes of sections 412 through 427 of this chapter, persons between thirteen (13) and seventeen (17) years of age, inclusive.

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D.C. Register Updates for Chapter 4 of the D.C. Personnel Regulations,
Organization for Personnel Management

The following *D.C. Register* citations identify when a given section(s) of Chapter 4 Organization for Personnel Management, of Title 6 of the District of Columbia Municipal Regulations, was amended. Following the publication in the *D.C. Register* of subsequent final rulemaking notices, this Addendum will be updated accordingly.

For the convenience of DPM subscribers, the Addendum identifies amendments on a section-by-section basis; identifies the page(s) in a DPM Transmittal impacted by the amendment(s); and provides brief comments on the amendment(s) accomplished.

<i>D.C. Register</i> Date	Section(s)	Change(s) Reflected on Page(s)	Comments
32 DCR 75 (1/4/85)	Unknown	Unknown	
33 DCR 4447 (7/25/86)	Unknown	Unknown	
51 DCR 928 (1/23/04)	Sections 400, 401, and 499	Entire chapter DPM Transmittal No. 112	The rules amended the entire chapter.
51 DCR 11591 (12/24/04)	Section 400 and 499; new sections 402, 403, 404, 405, 406, 407, 408 added	Entire chapter DPM Transmittal No. 124	The rules were amended to add the following new sections: 402, Suitability Policy; 403, General Provisions on Suitability; 404, Suitability: Applicability; 405, Suitability Checks and Background Investigations; 406, Background Investigations for Information Technology Systems Personnel in Subordinate Agencies; 407, Suitability Actions Against Employees Initiated by Personnel Authorities; and 408, Suitability Records.
52 DCR 6646 (7/15/05)	New section 412 added; section 499	Page(s) 12 - 25 DPM Transmittal No. 134	The rules implemented the provisions of Title II of D.C. Law 15-353, the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (Act), effective April 13, 2005. Title II of the Act required that criminal background checks be obtained for: (1) persons being considered for paid employment, or unsupervised voluntary services, with District government agencies that meet the definition of "covered child or youth services provider;" and (2) employees and unsupervised volunteers in District government agencies considered covered child or youth services providers. The Act also required that traffic record checks be conducted for certain persons being considered for employment, compensated or voluntary, with District government agencies

			considered covered child or youth services providers; that employees and unsupervised volunteers submit to periodic criminal background checks; and that rules be issued to implement the provisions of the title. The provisions of the Act were contained in new section 412, Criminal Background Check and Traffic Record Check Requirements – District Government Agencies Considered Covered Child or Youth Services Providers.
55 DCR 724 (1/25/08)	Sections 402, 403, 405, 407, 412 and 499; new sections 413 through 425 added	Entire chapter DPM Transmittal No. 160	The rules amended sections 412 and 499 of the chapter, and added new sections 413 through 425 to the chapter, pertaining to Title II of D.C. Law 15-353.
55 DCR 8870 (8/15/08)	Subsections 414.2 (d) and (e)	Page(s) 14 DPM Transmittal No. 174	The rules amended subsections 412.2 (d) and (e) of the Chapter to delete the language limiting agency coverage pursuant to D.C. Law 15-353 for the Fire and Emergency Medical Services Department (FEMSD) and Metropolitan Police Department (MPD) to specific organizational units within the FEMSD and MPD.
56 DCR 004346 (6/5/09)	400, 406, 407, 408, 414, 419	Page(s) 1, 5, 9, 12, 15, 16, 21, 22, 23, 24 E-DPM Transmittal No. 190	The rules amended section 414.2 of the chapter to add the District Department of the Environment, Natural Resources Administration, Fisheries and Wildlife Division, Fisheries Management Branch, Aquatic Resource Education Center, to the list of covered agencies for the purpose of criminal background checks and traffic record checks for the protection of children and youth pursuant to Title II of D.C. Law 15-353 (Act). Additionally, section 407 of the chapter, on suitability actions initiated or taken by personnel authorities, has been amended to clearly state that the personnel authority (not the employing agency) shall take the action terminating an employee who fails a criminal background check pursuant to the Act; and section 419 of the chapter, on the review and determination process for employees covered under the Act, has been amended to, among other things, clarify the process for the termination of employees who fail a criminal background check pursuant to the Act.

			<p>Finally, in addition to the amendments to sections 414.2, 407, and 419 of the chapter, other amendments, mostly non-substantive and unrelated to the Act, were made to sections 400, 404, 406, and 408 of the chapter.</p>
<p>58 DCR 00036 (1/21/11)</p>	<p>403, 405, 407, 412, 416, 418, 419, 420, 421, 422, 423, 424, 426 (new), 427 (new), and 499</p>	<p>Page(s) 4 – 10, 12, 13, and 17 - 36 E-DPM Transmittal No. 201</p>	<p>The rules: (1) amended section 420 to specify the challenge process for employees and the procedure for applicants, appointees, and volunteers covered by the Criminal Background Checks for the Protection of Children Act of 2004, as amended (Act) to challenge a final agency action which results in denial, removal, or termination of a volunteer, or a conditional or provisional appointee covered by the Act; (2) to add a new section 426 to the chapter to address the limited concurrent personnel authority delegated to the Chief of the Fire and Emergency Medical Services Department via Mayor’s Order 2009-166; and (3) to add a new section 427 to provide regulations to govern suitability appeals before the Commission on Human Rights in compliance with the Act. Also, amendments were made to sections 403, 405, 407, 412, 416, 418, 419, 421, 422, 423, and 424 of the chapter, and subsections in those sections are renumbered to maintain uniformity in the chapter as a result of adding the new sections and subsections. The definitions of the terms <i>“applicant,” “appointee,” “background investigation,” “children,” “covered assignment,” “covered child or youth services provider,” “covered duties and responsibilities,” “covered position,” “non-covered duties and responsibilities,” “non-covered position,” “person being considered for employment,” “volunteer,”</i> and <i>“youth”</i> are being amended; and definitions of the terms <i>“administrative action,” “disposition,”</i> and <i>“substantial evidence”</i> are being added to section 499 of the chapter.</p>

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