

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS**



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INSTRUCTIONS

**For appealing an unsuitability finding under the
Criminal Background Checks for the Protection of Children Act**

The Criminal Background Checks for the Protection of Children Act of 2004, D.C. Code §§ 4-1501.01 – 4-1501.11 (the Act), confers jurisdiction on the District of Columbia Commission on Human Rights (“Commission”) to review the appeal of an **applicant or volunteer** who is denied employment or the opportunity to volunteer because it has been determined that the applicant presents a present danger to children or youth. *See* D.C. Code § 4-1501.05a(c); 6B DCMR 439 (2020). An applicant or employee who is found unsuitable may appeal by completing the attached Appeal Form.

What if I am a currently a D.C. Government employee being terminated based on a criminal background check?

The Commission on Human Rights does **NOT** have jurisdiction over current employees. If you are a currently an employee please refer to the D.C. Department of Human Resources (“DCHR”) regulations at 6B DCMR § 437.3(b) (2022) which state that a current employee who is deemed unsuitable and is separated from work “may appeal that determination with the Office of Employee Appeals (OEA) or, if applicable, initiate a grievance pursuant to a collective bargaining agreement or Chapter 16 of these regulations.”

When must I file my appeal?

Your appeal must be filed within **30 calendar days** of the date that you were found unsuitable for employment. Please provide a copy of the unsuitability determination with your appeal.

Where do I file my appeal?

You may email your appeal to Commission.COHR@dc.gov or you may mail, or hand deliver it to Suite 570N at the the above address.

What information should I provide with my appeal?

Please provide a copy of the ineligibility determination you received and any information you have regarding convictions or disposition of cases that are relevant to the Agency’s determination. In

addition, provide any mitigating or extenuating circumstances including information about rehabilitation or treatment.

What happens after I file my appeal?

Once your appeal is received, it will be assigned to an Administrative Law Judge who will contact the hiring agency and request a Position Statement and a copy of documentation that was relied upon in making a determination. The hiring agency generally has 30 days to provide this information. The applicant will then be given an opportunity to respond to the Agency's position. A tribunal of three Commissioner will then make a recommendation to the hiring agency based solely on the papers. There is no hearing in these cases.

What happens after the Commission makes a recommendation?

The personnel authority shall consider the Commission's recommendation and issue a **final decision** without further appeal to the Commission or any court. 6-B DCMR § 439.11.

Where can I find the laws and regulations applicable to my appeal?

The Criminal Background Checks for the Protection of Children Act of 2004 can be found at D.C. Code §§ 4-1501.01 – 4-1501.11. You can access a free copy here: <https://code.dccouncil.us/us/dc/council/code/sections/4-1501.01#>

The District of Columbia Office of Human Resources regulations can be found in the District of Columbia Municipal Regulations ("DCMR") at 6B DCMR §§ 403 – 438. You can access a free copy here: <https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=6-B4&ChapterId=560>

Regulations of the Office of the State Superintendent for Education ("OSSE"), applicable to licensed child development centers can be found at 5A DCMR §§ 132 – 138 and can be accessed for free here: <https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=5-A1&ChapterId=3842>