

**Effective 7/1/2015**

**53A-15-1506 Due process for individuals--Review of criminal history information.**

- (1)
  - (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.
  - (b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:
    - (i) information received; and
    - (ii) the reasons for the disqualification.
  - (c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:
    - (i) the reasons for the disqualification; and
    - (ii) the individual's right to request a review of the disqualification.
- (2)
  - (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53A-15-1503 in accordance with:
    - (i) Subsection (3);
    - (ii) administrative procedures established by the LEA or qualifying private school; and
    - (iii) rules established by the State Board of Education.
  - (b) The State Board of Education shall make decisions regarding criminal history information for licensed educators in accordance with:
    - (i) Subsection (3);
    - (ii) Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and
    - (iii) rules established by the State Board of Education.
- (3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:
  - (a) any convictions, including pleas in abeyance;
  - (b) any matters involving a felony; and
  - (c) any matters involving an alleged:
    - (i) sexual offense;
    - (ii) class A misdemeanor drug offense;
    - (iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;
    - (iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
    - (v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Enacted by Chapter 389, 2015 General Session