

Pilot Process and Procedure for Applicants for Student Admission and Participation in Campus Life with Previous or Pending Criminal or Disciplinary History

I. Purpose and Scope

The University of Colorado Colorado Springs (UCCS) is committed to facilitating a safe environment conducive to academic learning. To assist in maintaining a safe environment for all students, faculty and staff and pursuant to Colorado Senate Bill 19-170 (the Ensuring Access to Higher Education Act) as codified in C.R.S. § 23-5-106.5, UCCS has implemented the following as a pilot process and procedure for the collection and consideration of previous or pending disciplinary and criminal history for applicants and admitted applicants for the spring, summer or fall 2020 semesters for the purposes of student admission and participation in campus life.

II. Definitions

For the purposes of this process and procedure, the following terms are defined as follows:

- A. Academic performance** – behavior that could affect academic standing at an institution including academic integrity violations such as plagiarism, cheating, fabrication, lying, bribery, unauthorized access to academic materials, resubmission, or aiding academic dishonesty
- B. Adjudicated guilty** – a guilty verdict, an accepted guilty plea or an accepted Nolo Contendere (No Contest) plea and does not include a plea to a deferred judgement or sentence, unless or until revoked
- C. Admitted applicant** – a person who has been offered admission, whether full-time or part-time, to an undergraduate, graduate, professional, non-degree or non-credit program at UCCS
- D. Applicant** – a person who has submitted an application as defined herein
- E. Application** – an application for student admission as an undergraduate, graduate, professional, non-degree or noncredit program at UCCS
- F. Law enforcement report** – the records of a law enforcement agency documenting an incident, arrest, or crime that typically include information about the date, nature, and persons involved in the underlying matter
- G. Campus life** – on-campus housing and/or any other campus-sponsored activity or program outside of academic coursework
- H. Charges or Charged** – the commencement of prosecution by the filing of an indictment or presentment, the issuing of a warrant which is binding over the offender, or by the filing of information
- I. Eligible to Enroll with Stipulations** – an offer of admission contingent upon an admitted applicant’s participation in responsive actions
- J. Conduct or Conduct History** – disciplinary history and/or criminal history
- K. Conduct Review Committee (CRC)** – a UCCS standing committee chaired by the Senior Executive Director for Enrollment Management, or designees, and comprised of cross-campus representatives from the UCCS Police Department (DPS), the Dean of Students,

and Office of Financial Aid. Representatives from the Office of University Counsel and Risk Management are available as consultants.

- L. Matriculated applicant** – a person who has been admitted to UCCS and has notified the university that they intend to enroll by making an orientation reservation.
- M. Conviction** – a guilty verdict, a guilty plea or a Nolo Contendere (No Contest) plea and not including a plea to a deferred judgement and sentence unless and until revoked
- N. Criminal history** – any pending criminal charges or being adjudicated guilty or convicted of a misdemeanor or felony
- O. Disciplinary history** – any pending allegation or prior incident of being found responsible for a disciplinary violation at an educational institution
- P. Eligible to enroll** – after the CRC completes their pre-admission review, they may determine that the applicant is eligible for admission and ultimately may enroll at UCCS either with or without further responsive actions
- Q. Enrolled student** – a person who is actively enrolled and attending academic courses at UCCS
- R. Pre-admission** – occurs once an applicant has submitted an application but before an offer of admission by the university has been made
- S. Post-admission** – occurs after an offer of admission by the university has been made
- T. Responsive action:** Possible requirements determined by the Criminal Clearance Committee (CRC) which may include meeting with staff from the Dean of Students or the Office of Institutional Equity, training or educational participation, drug, alcohol, forensic or other evaluation, and/or regulation of court compliance.
- U. Student** – a person who is enrolled, has confirmed their intent to enroll or is designated as active and able to enroll in courses at UCCS, either full-time or part-time, pursuing undergraduate, graduate, professional, non-degree, or non-credit studies

III. Process and Procedure

A. Inquiries

- 1. Application:** Pursuant to C.R.S. § 23-5-106.5(3), UCCS will inquire about the following conduct on the application for student admission:
 - a. An applicant’s prior convictions for stalking, sexual assault, and domestic violence
 - b. An applicant’s prior convictions, within five years before submitting the application, for assault, kidnapping, voluntary manslaughter, or murder
 - c. An applicant’s prior disciplinary history at another academic institution for stalking, sexual assault, and domestic violence
 - d. Any criminal charges pending against the applicant
 - e. An applicant’s education records related to academic performance.
- 2. Participation in Campus Life:** After admission, pursuant to C.R.S. § 23-5-106.5(7), UCCS will inquire into an admitted applicant’s conduct history when obtaining information pertaining to participation in campus housing, athletics, club travel, club sports, outdoor recreation programs, study abroad, national student exchange, or other overnight travel.

3. **Conduct Questions:** The CRC is responsible for drafting and updating, if needed, the conduct questions to be included on the application. A committee comprised of representatives from applicable campus life programs and activities is responsible for drafting and updating the post-admission conduct questions for the purposes of student participation in campus life.

B. Notice to Applicants on the Application

In compliance with C.R.S. § 23-5-106.5(2)(b), UCCS will notify applicants on the application that the applicant is not required to disclose any information contained in sealed records and has the right to appeal, pursuant to the below procedures, a denial decision made based on any information required to be disclosed.

C. Review and Determination Procedures

1. **Admissions Unit Academic Admissibility Determination:** Prior to any consideration of criminal or disciplinary conduct, the application will first be reviewed by the admissions unit to determine if the applicant is academically eligible for admission. If academically eligible, the application will then go through the conduct review process as provided below.
2. **Pre-Admission Affirmative Responses to Application Inquiries:** If an applicant responds "yes" to any of the conduct questions on the application for admission, the following steps will be taken:
 - a. *Supplemental Information:* If not already included in the application, the respective admissions unit in which applicant is applying for admission (Office of Admissions, Graduate School, or Extended Studies) will send the applicant notification that they are required to provide a factual explanation regarding the underlying incident(s) in question (for both disciplinary and criminal history responses) and any relevant documentation, including the law enforcement report(s) and/or court record reflecting the conviction (for criminal history responses only) and any other information the applicant would like considered. The committee may also request additional information and/or verify information through third parties such as probation officers, law enforcement agencies, etc.
 - b. *Applicant Responsibilities:* The applicant must provide adequate and responsive information to the CRC in a timely manner, as requested by the CRC. Failure to do so may jeopardize eligibility for admission.
 - c. *Admissions Unit Preliminary Procedural Review:* A representative from the respective admissions unit will initially review the applicant's completed information, including the Supplemental Form and law enforcement reports, if applicable.

- i. If the respective admissions unit representative determines that the applicant answered “yes” in error by providing conduct information other than what was requested on the application, the unit may determine the applicant as eligible to enroll and the appropriate admission decision will be posted.
 - ii. If the unit representative does not determine that the applicant answered “yes” in error, then the unit representative will forward the applicant’s full response, Supplemental Form, law enforcement reports, and/or any other documentation provided by the applicant to the chair of the CRC for review.
- d. *CRC Review and Determination:* The chair will provide the submitted materials to the CRC for review. The CRC will consider:
- i. The nature and gravity of any conduct;
 - ii. The time that has passed since the occurrence of any conduct;
 - iii. The age of the applicant at the time of the conduct; and
 - iv. Any evidence of rehabilitation or good conduct produced by the applicant.

If the CRC finds by a preponderance of the totality of this information that the applicant's conduct poses an unreasonable risk to the safety or security of the campus community, the CRC will determine that the applicant is not eligible to enroll and UCCS will not offer admission to the applicant.

- e. *Notification of Determination:*
- i. *Not Eligible to Enroll:* If the CRC determines that the applicant is not eligible to enroll, the respective admissions unit will send notification to the applicant and the application will be withdrawn from consideration.
 - ii. *Eligible to Enroll:* If the CRC determines that the applicant is eligible to enroll, the respective admissions unit will update the applicant's admission application with the appropriate admission decision.
 - iii. *Eligible to Enroll with Stipulations:* If the CRC determines that the applicant’s eligibility to enroll is based on the applicant’s compliance with responsive action specified by the CRC, the respective admissions unit will update the admission application with the appropriate admission decision and will send the appropriate notification to the applicant.
- f. *Timeline:* The conduct review process will be completed within a reasonable period of time and may generally take 30 calendar days following the CRC receiving all necessary supplemental information. This timeline may be extended if additional information is pending from the applicant or third parties such as probation officers, law enforcement agencies, etc. or in other circumstance of good cause as determined by UCCS. If the timeline is extended, applicants will be notified by the CRC of the updated timeline for review.

- 3. Post-Admission Affirmative Responses:** After UCCS has made an offer of admission, admitted applicants who are pursuing campus housing, athletics, club travel, club sports, outdoor recreation programs, study abroad, national student exchange, or

other overnight travel may be required to respond to additional conduct history questions. UCCS will also provide notice that the admitted applicant is not required to disclose any information contained in sealed records and has the right to appeal pursuant to the below procedures based on any information required to be disclosed. If an admitted applicant responds "yes" to any of the post-admission conduct questions, the following steps will be taken:

- a. *Post Admission Questions and Supplemental Information:* If the admitted applicant pursues campus housing, club travel, club sports, outdoor recreation programs, study abroad, national student exchange, or other overnight travel at any time after matriculation, the admitted applicant is required to provide an explanation regarding the incident(s) in question (for both disciplinary and criminal history responses), law enforcement report(s) and/or court record of final disposition such as a record for conviction (for criminal history responses only) and any other information the admitted applicant would like considered. The applicable department may also request additional information and/or verify information through third parties such as probation officers, law enforcement agencies, etc.
- b. *Admitted Applicant Responsibilities:* The admitted applicant must provide adequate and responsive information to UCCS in a timely manner in the forms provided, or as otherwise requested by UCCS staff. Failure to do so may jeopardize eligibility for participation in campus life.
- c. *Applicable Department Preliminary Procedural Review:* A representative from the respective department will review the admitted applicant's submitted information, arrest reports and related court documents, if applicable.
 - i. If the department representative determines that the admitted applicant answered "yes" in error by providing conduct information other than that what was requested, the department may determine no further review is needed and will send notification to the admitted applicant.
 - ii. If the department representative determines that the nature of the crime(s) or offense(s) warrant a further review, then the unit representative will forward the admitted applicant's full response, law enforcement report, related court documents and/or any other documentation provided by the admitted applicant to the department director for review. The department director will also notify the Dean of Students.
- d. *Background check (for criminal history responses only):* If the admitted applicant answers "yes" to one of the criminal history questions and the unit representative believes that the nature of the crime(s) or offense(s) warrant a further review, then the department representative will notify the admitted applicant their record will be further reviewed. They will also inform the admitted applicant that they may be required to undergo a background check and send an additional email with information on how to consent to the background check through UCCS's process,

which may include a third-party vendor. Once the admitted applicant submits the background check consent form, the department representative will contact the UCCS Police Department (DPS). DPS will conduct a background check into the admitted applicant's relevant history.

- f. *Background Check Results (for criminal history responses only)*: If the background check identifies additional responsive information to the conduct history questions posed that should have been but was not previously disclosed by an applicant at the pre-admission application or by an admitted applicant post-admission stage, then any or all of the following may occur:
 - i. DPS and/or the CRC may communicate with law enforcement agencies, probation officers or other appropriate third parties to obtain further information.
 - ii. The CRC may contact the applicant or admitted applicant to request an additional explanation or an interview may be conducted.
 - iii. The applicant or admitted applicant may be subject to an allegation of violation of the Student Conduct Code through the Dean of Students.
 - iv. Admission Revocation.

- g. *Applicable Department Review and Determination*: Once all information is received, the applicable department will provide the relevant materials to the department's director, or designee, for review. The department director may consult with DPS, the Dean of Students, University Counsel, or any other relevant campus department as needed. The director will consider:
 - i. The nature and gravity of any criminal conduct and whether it bears a direct relationship to a particular aspect of an admitted applicant's participation in campus life, including, but not limited to residency on campus and campus activities;
 - ii. The time that has passed since the occurrence of any criminal conduct;
 - iii. The age of the admitted applicant at the time of the conduct underlying a criminal conviction;
 - iv. Any evidence of rehabilitation or good conduct produced by the admitted applicant; and
 - v. The benefit to the admitted applicant of participating in campus life.

If the department director finds by a preponderance of the totality of this information that the admitted applicant's conduct including but not limited to registered sex offender status, poses an unreasonable risk to the safety or security of others in the campus community, the director may prohibit participation in campus life or may condition eligibility for participation in campus life upon the admitted applicant's compliance with responsive action specified by the director.

- h. *Notification of Determination:* The director will notify the admitted applicant of the result of the review and any responsive action required.
- i. *Status Pending Determination:* Any admitted applicant undergoing a review under this section may not participate in the campus life program or activity applied for until a determination is made which allows the admitted applicant to take part in the campus life program or activity.

If the admitted applicant is applying for campus housing, the admitted applicant may not move into campus housing until Residence Life and Housing has completed its review.

- 4. **Registered Sex Offenders:** If at any time it comes to the attention of the applicable unit that an admitted applicant is a registered sex offender, the unit shall determine whether the admitted applicant is eligible to reside in university housing and/or condition eligibility for participation in campus life upon the admitted applicant's compliance with responsive action. Such decisions will be communicated to the admitted applicant. If an admitted sex offender is allowed to reside on campus, they must comply with any and all registration requirements per state law, in addition to registering with DPS.

D. Obligation to Update Responses Prior to Start of Enrollment

The procedures above also apply to all applicants, admitted applicants and matriculated students whose previously reported criminal or disciplinary history changes before the start of their first term of attendance. These students are required to immediately notify their respective admissions unit of the changes and submit the required documentation. For changes to responses to questions on the application, the CRC shall decide as to whether revocation of admission or other responsive action is appropriate based on the criteria above. For changes to responses to questions regarding campus life participation, the CRC shall determine to what extent eligibility is impacted and any responsive action required. The CRC's decision will be communicated in writing to the student. In addition, failure to report changes that should have been disclosed may result in an allegation of a violation of the Student Code of Conduct through the Dean of Students.

E. Appeals

- 1. **Scope and Grounds (Admissions):** An applicant or admitted applicant may appeal a CRC determination to not admit, to admit with conditions, or to require responsive actions, resulting from a CRC review of criminal and/or disciplinary history. Such appeal must be based on one or both of the following grounds:
 - a. The established procedures were not followed in a significant way, and, as a result, the CRC's decision resulted in a material error to deny admission.

- b. The determination did not appropriately consider material information based on the nature, circumstances, gravity, elapsed time, age of applicant at the time of underlying conduct, and/or evidence of rehabilitation, as it relates to the criminal and/or disciplinary history.
- 2. Scope and Grounds (Housing):** An admitted applicant may appeal a Residence Life and Housing determination to not allow the admitted applicant to live in University housing, resulting from a review of criminal and/or disciplinary history. Such appeal must be based on one or both of the following grounds:
 - a. The established procedures were not followed in a significant way, and, as a result, the department's decision resulted in a material error to deny admission.
 - b. The determination did not appropriately consider material information based on the nature, circumstances, gravity, elapsed time, age of applicant at the time of underlying conduct, and/or evidence of rehabilitation, as it relates to the criminal and/or disciplinary history.
- 3. Other Decisions are Final:** All other decisions made related to athletics, club travel, club sports, outdoor recreation programs, study abroad, national student exchange, or other overnight travel are final and may not be appealed.
- 4. Request Submission:** To request an appeal of an admissions decision, the applicant must submit a request using the form link provided in the denial letter within the requisite timeframe. To request an appeal of a housing decision, the admitted applicant must submit a request to the Executive Assistant to the Vice Chancellor for Student Success within 30 calendar days of the date of the original decision, stating the grounds for the appeal pursuant to above, the resulting action requested, and any and all supporting information for the request. All appeal requests will be sent to the Vice Chancellor for Student Success or designee (Appeal Officer).
- 5. Review and Determination:** If the applicant or admitted applicant submits an appeal form in accordance with time and format requirements herein, the Appeal Officer shall confirm whether there is applicable grounds for an appeal. If either or both grounds apply, the Appeal Officer will review the appeal and make a determination. The appeal decision shall be based on the record of documents provided by the applicant and the CRC/Residence Life and Housing. All new information requested by the applicant or admitted applicant to be considered must be submitted by the applicant or admitted applicant with the applicant's appeal submission. Failure to provide adequate and timely information may result in denial of an appeal request. The Appeal Officer can consult with appropriate campus administrators including but not limited to the chair of the CRC or the Director of Residence Life and Housing.
- 6. Resulting Actions:** The Appeal Officer may take any of the following actions:

- a. Affirm the initial decision to deny admission, to conditionally admit, or affirm the responsive actions imposed by the CRC/Residence Life and Housing;
- b. Reverse the decision made by the CRC/Residence Life and Housing and grant admission with no restrictions;
- c. Reverse the decision made by the CRC/Residence Life and Housing and grant admission with conditional admission or responsive actions; or
- d. Modify the terms of the conditional admission and/or responsive actions set by the CRC/Residence Life and Housing.

IV. No Limitation on Existing Authority

Nothing herein is intended to, nor shall it, limit UCCS from taking responsive action on any criminal or disciplinary conduct that is authorized by law to be disclosed, including but not limited to FERPA, that UCCS receives by any means, including but not limited to the applicant's transcript from previous institutions. If such information references conduct other than the conduct requested to be disclosed in response to the questions authorized on the admission's application, UCCS's responsive action will not include student admission, denial, or revocation.

Effective Date: May 1, 2020