



**REVISED**

**MEMORANDUM**

**September 14, 2016**

**TO: Members of the Board of Trustees**

**FROM: Nancy L. Zimpher, Chancellor**

**SUBJECT: Admission of Persons with Prior Felony Convictions**

**Action Requested**

The proposed resolution modifies University policy to prohibit pre-admission inquiry into prior felony convictions, but require post-admission inquiry for individuals seeking to participate in campus housing, clinical or field experiences, internships or study abroad programs.

**Resolution**

I recommend that the Board of Trustees adopt the following resolution:

Whereas NYS Education Law § 351 declares that the mission of the State University of New York is to “provide to the people of New York educational services of the highest quality, with the broadest possible access, fully representative of all segments of the population....”; and

Whereas it is in the interest of the State of New York to facilitate the admission of individuals with previous criminal convictions into the University because access to higher education can enhance public safety by reducing recidivism and facilitating successful reintegration into society; and

Whereas a report issued by the Center for Community Alternatives entitled *Boxed Out: Criminal History Screening and College Application Attrition* (the “Report”), and the testimony of those advocating on behalf of individuals with prior involvement with the criminal justice system have provided powerful evidence that SUNY’s current policy

requiring pre-admission inquiry into an applicant's prior felony convictions has discouraged candidates with prior felony convictions from applying to SUNY schools; and

Whereas the Report found that approximately 62.5% of candidates who were asked to disclose prior felony convictions on SUNY admissions applications did not complete the application process; and

Whereas the Report further found that SUNY's existing policy requiring pre-admission inquiry into prior felony convictions has had a particularly negative impact on applicants of color as a result of racial disparities in the criminal justice system; and

Whereas in September 2015, SUNY established a Ban-the-Box Workgroup (the "Workgroup") comprised of campus and System Administration representatives to evaluate SUNY's policy of inquiring into prior felony convictions on admission applications; and

Whereas an increasing number of colleges, universities and university systems around the nation have ceased making pre-admission inquiries into applicants' prior criminal histories; and

Whereas national crime statistics demonstrate that colleges and universities which have eliminated pre-admission inquiry into prior criminal history have not experienced an increase in campus crime rates; and

Whereas in his January 2016 State of the State address, Governor Cuomo advocated for expanded educational opportunities for incarcerated and formerly incarcerated individuals; and

Whereas the New York State Bar Association issued a special committee report in January 2016 supporting the elimination of pre-admission criminal history inquiries on college and university applications; and

Whereas the SUNY Student Assembly adopted a resolution in March 2016 calling for the elimination of the felony conviction question on SUNY admission applications; and

Whereas in a March 2016 letter to SUNY leadership, United University Professors expressed support for eliminating the felony conviction question from SUNY admission applications; and

Whereas the U.S. Department of Education issued guidance in May 2016 urging states to discontinue seeking felony conviction information on college and university admission applications; and

Whereas in June 2016, the President of the United States initiated a “Fair Chance in Higher Education” initiative seeking to reduce unnecessary barriers facing people with criminal histories who seek to improve their lives through higher education. As part of this initiative, the federal government has requested that colleges and universities refrain from asking about or evaluating candidates’ criminal histories until later in the admission process in order to allow candidates to be considered based on their qualifications; and

Whereas the Board of Trustees heard from many individuals and organizations at its public hearing on May 4, 2016 urging SUNY to eliminate the felony conviction question from its admission applications; and

Whereas the Workgroup examined this issue for almost a year and upon careful consideration, recommended the amendment of Policy 3300, “Admission of Persons with Prior Felony Convictions or Disciplinary Dismissals” to eliminate the current requirement that an applicant disclose prior felony convictions on the admission application; and

Whereas the Workgroup further recommended the adoption of a new Policy which would preclude pre-admission inquiry into an applicant’s prior criminal history but require post-admission inquiry into prior felony convictions for students seeking participation in campus housing, clinical and field experiences, internships and study abroad programs; now therefore, be it

Resolved that Policy 3300, “Admission of Persons with Prior Felony Convictions or Disciplinary Dismissals” is hereby

amended to eliminate that portion of the policy relating to prior felony convictions; and be it further

Resolved that a new policy entitled “ Admission of Persons with Prior Felony Convictions” is hereby adopted, in the form attached to this Resolution, which prohibits University-wide and individual SUNY campus admission applications from making pre-admission inquiry into an applicant’s prior criminal history, and requires post-admission inquiry into prior felony convictions for only those students seeking participation in campus housing, clinical and field experiences, internships and study abroad programs.

### **Background**

In view of the serious issues raised in the report of the Center for Community Alternatives entitled *Boxed Out: Criminal History Screening and College Application Attrition*, and increasing state and national calls for the elimination of pre-admission inquiries into applicants’ prior criminal history, SUNY established a Ban-the-Box Workgroup (the “Workgroup”) comprised of campus and System Administration representatives, to evaluate SUNY’s admissions policies and practices. In conducting this evaluation, the Workgroup sought to balance the right of individuals with prior felony convictions to have their admissions applications reviewed in a non-discriminatory manner against legitimate concerns for the safety of the campus community. After careful consideration, the Workgroup recommended the adoption of a new SUNY policy prohibiting pre-admission inquiry regarding an applicant’s prior criminal history while requiring post-admission inquiry into prior felony convictions where such information is relevant to the proper consideration of an individual’s request for access to campus housing and participation in clinical and field experiences, internships and study abroad programs, consistent with the requirements of the New York State Corrections Law. The Workgroup further recommended implementing the new policy in the recruitment cycle for the 2018 school year to provide sufficient time for SUNY and individual campuses to engage in the activities necessary to ensure successful implementation.

 <p>Category: Student Affairs</p> <p>Responsible Office: <a href="#">Enrollment Management</a></p>	<p>Policy Title: Admission of Persons with Prior Felony Convictions Document Number:</p> <p>Effective Date: July 1, 2017 (recruitment cycle for the 2018 school year)</p> <p>This policy item applies to: State-Operated Campuses Community Colleges</p>
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## Summary

State University of New York (University or SUNY) policy prohibits University-wide and individual SUNY campus admission applications from inquiring into an applicant's prior criminal history. After an applicant has been accepted as a student, campuses shall inquire if the student previously has been convicted of a felony if such individual seeks campus housing or participation in clinical or field experiences, internships or study abroad programs. The information required to be disclosed pursuant to this policy regarding such felony convictions shall be reviewed by a campus committee consistent with the legal standards articulated in New York State Corrections Law.

## Policy

Higher education plays a critical role in promoting good citizenship, expanding economic opportunity and improving the quality of community life. The State University of New York was founded to provide the people of the State of New York with broad based access to high quality educational services. It is in the interest of the State to facilitate the admission of individuals with previous criminal convictions because improved access to higher education can enhance public safety by reducing recidivism and facilitating successful reintegration into society. Such efforts must be balanced with reasonable actions to protect the safety of the campus community. In view of the foregoing, it is the policy of the University that:

## Pre-Admission Inquiry

Neither the University-wide nor individual SUNY campus applications shall inquire about prior criminal history.

Some campuses use third-party admission applications whose content is not controlled by SUNY. Campuses are not prohibited from using such applications, however, they are prohibited from using any information regarding prior felony convictions provided on these applications on a pre-admission basis.

## Post-Admission Inquiry

After a student has been accepted for admission, if such student seeks campus housing, or seeks to participate in clinical or field experiences, internships or study abroad programs, campuses shall inquire if the student has a prior felony conviction.

## Campus Committee Review

Each campus shall establish a standing campus committee to decide whether an applicant who has made a post-admission disclosure of a prior felony conviction shall be permitted access to campus housing, clinical or field experiences, internships or study abroad programs, and any conditions on such access. New York State Corrections Law [sections 750, 752 and 753] forbids discrimination against individuals previously convicted of criminal offenses. As a result, the committee must carefully evaluate the relevance of an individual's previous felony convictions to the activities/services requested consistent with the legal standards articulated in the NYS Corrections Law. To facilitate this evaluation, the committee shall request the following:

1. The specifics of all prior felony convictions and dates of occurrence;
2. For students in parole or probation status, references must be provided from the Department of Correctional Services Division of Parole or the Office of Probation and Correctional Alternatives, including the name and addresses of parole or probation officers. Parole and probation officials should be questioned as to whether the individual's admission as a student or participation in the activities/services requested are consistent with the student's parole or probation conditions or would pose a threat to the safety of the campus community;
3. A personal interview to either clarify or verify information may be conducted if desired by the committee.

After reviewing all available information, the committee must decide whether to grant or deny the individual's admission or participation in the activities/services requested or to grant such admission/participation subject to articulated conditions. Admission and/or participation in requested activities/services may only be denied if such admission/participation would pose an unreasonable risk to property or the safety or welfare of specific individuals or the general public.

The president of each campus should designate a campus official to act as a liaison with the Department of Correctional Services Division of Parole or the Department of Probation and Correctional Alternatives and the local parole or probation office.

Campuses have an affirmative obligation to advise students that a prior felony conviction may impede their ability to complete the requirements of certain academic programs and to meet the licensure requirements for certain professions. Once so advised, students may not be prohibited from pursuing a particular course of study.

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### Definitions

There are no definitions relevant to this policy.

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### Other Related Information

The following link to FindLaw's [New York State Laws](#) is provided for users' convenience; it is not the official site for the State of New York laws.

[NYS Corrections Law:](#)

§ 750 (Definitions)

§ 752 (Unfair discrimination)

§ 753 (Factors to be considered).

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### Procedures

There are no procedures relevant to this policy.

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### Forms

[SUNY Common Application](#)

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### Appendices

There are no appendices relevant to this policy.

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