



The State University
of New York

Office of the Chancellor

State University Plaza
Albany, New York 12246

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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, with the exception of inquiry into prior felony sex offense convictions, and 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 generally 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, with the exception of inquiry into an applicant’s prior felony sex offense convictions, and permits 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 limiting pre-admission inquiry regarding an applicant’s prior criminal history while permitting 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 admissions 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.