

COLLEGE of CHARLESTON

OFFICIAL POLICY

8.1.5

**Admitting Applicants for Enrollment with Criminal Background,
Disciplinary Background or Misconduct Policy**

9/10/20

Policy Statement

To protect the safety of the College community and to foster a safe learning, living and working environment.

Policy Manager and Responsible Department or Office

Dean of Students and Dean/Director of Admissions

Policy

1.0 PURPOSE

The College of Charleston recognizes the right of individuals to apply for enrollment at institutions of higher education that are best suited to their talents, their potential, and their aspirations for meaningful and productive lives. While the College considers Applicants for admission on the basis of merit, it must also take prudent measures to assure, insofar as practicable, that offers of admission are not extended, or will not remain extended to, those individuals who present an unreasonable risk of harm to the members of the College Community or their property. It is, therefore, the purpose of this Policy to

- (a) further the interest of the College to provide a safe and secure environment for all members of the College Community and to foster and protect their respective rights to work and learn in such an environment;

- (b) mitigate against the possibility of extending an offer of enrollment to any person that presents an unreasonable risk to the safety of the College Community or their property;
- (c) require that Applicants for admission have fully and accurately disclosed problematic behaviors and misconduct that may present an unreasonable risk to the College Community;
- (d) set out procedures that are calculated to make informed determinations about risks and threats while preserving the rights of all Applicants to challenge such determinations at meaningful times and in meaningful ways; and
- (e) provide appropriate notice of those standards and procedures that will be used by the College to make an adverse admissions decision based on an Applicant's disciplinary, criminal and/or misconduct history or record, or to rescind an offer of admission if made on the basis of false, misleading or incomplete information.
- (f) Discourage conduct, including but not limited to statements or social media postings threatening violence, condoning violence, inciting violence, or otherwise inflicting injury by their very utterance, including but not limited to such conduct directed at an individual or group on the basis of race, gender, gender identity, gender expression, sexual orientation, color, religion, disability, age, ethnicity, genetic background, service in a uniformed service, or national origin which have the purpose or effect of creating an unreasonable risk of harm to the College Community.

2.0 DEFINITIONS

As used in the Policy the terms listed below shall have the meaning ascribed next to each:

- (a) "Admissions Office" – shall mean one or more of the following: the Office of Admissions, the Office of Graduate Admissions, and/or the Office of Summer Sessions.
- (b) "Applicant" -- shall mean any prospective enrollee at the College who has completed and submitted an application for admission, but who has not yet been enrolled and registered for classes at the College. Once a student is enrolled and has registered for classes, Applicants are students at the College of Charleston and are subject to the student code of conduct.
- (c) "Background Check" -- shall mean the process of requesting and obtaining one or more of the following elements of information regarding an Applicant's personal history:
 - (1) criminal court record;
 - (2) driving record;
 - (3) disciplinary record from other education institutions;

- (4) reference verification (character and/or professional/job references);
- (5) National Sex Offender Record;
- (6) any fingerprint-based criminal or security record;
- (7) national wants and warrants;
- (8) any OIG/GSA/DOD excluded parties list (of individuals or entities debarment or suspension from federal contracting);
- (9) global terrorist record; or
- (10) Military Justice System Record.

(d) "College Community" – shall mean trustees, students, faculty, staff and invitees of the College.

(e) "Conviction" – shall mean a criminal conviction and includes a guilty plea of any type or plea of *nolo contendere* in any state, federal or international court.

(f) "Criminal Record" – shall mean any crime for which there is a record of conviction.

(g) "Decisional Authority" -- shall mean the Executive Vice President for Student Affairs and the Provost/Executive Vice President for Academic Affairs.

(h) "Disciplinary Action" – shall mean any secondary school or institution of higher education offense or infraction of rules that prompted a disciplinary response by the school or institution (such as a reprimand, expulsion, suspension or other sanction), and includes a sanction imposed after the acceptance of responsibility by the Applicant.

(i) "Disqualifying Crime" or "Disqualifying Disciplinary Record" – shall mean a crime or disciplinary record as defined in Section 6.0.

(j) "Enrollment" - Applicants are considered enrolled students once the student registers for his or her first class.

(j) "Violent Crime" or "Crime of Violence" – is defined in the appendix hereto

3.1 APPLICANT ASSESSMENTS

All Applicants must respond to the following questions in the general application:

1. "Have you ever been adjudicated guilty or convicted of a misdemeanor or felony? Note that you are not required to answer "yes" to this question, or provide an explanation if the criminal adjudication has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be kept confidential."
2. "Have you ever been found responsible for a disciplinary violation at any educational institution you have attended from the 9th grade (or the international equivalent) forward, whether related to academic misconduct or behavior misconduct, that resulted in a disciplinary action? These actions

could include, but are not limited to: probation, suspension, removal, dismissal, or expulsion from the institution.

Answering yes to these questions is not an automatic bar to admission. The College reviews candidates holistically and will seek to understand the context of any response.

Subject to Section 3.2 below, Applicants who answer yes to either of these questions will first be evaluated for admission based on other factors. If the applicant is otherwise recommended for admission, the Applicant's file will be reviewed by the Applicant Conduct and Safety Assessment Committee as described below.

3.2 Minor Offenses and Minor Disciplinary Actions

(a) If an Applicant is otherwise recommended for admission and has disclosed, or a background check has shown or information is otherwise learned by the Office of Admissions, that the Applicant has been: (1) convicted of no more than one misdemeanor (not involving violence) within the last 4 year period; and/or (2) the subject of a disciplinary action by another school or institution within the last 2 years involving a sanction no more severe than a written reprimand and/or a suspension of no greater than 10 school days, and/or (3) if in the prior two years before submitting the application, the student has engaged in misconduct that would otherwise have subjected them to action under (1) or (2) or would have otherwise been a criminal act, but that did not result in any conviction or disciplinary action including but not limited to statements or social media postings threatening violence, condoning violence, inciting violence, or otherwise inflicting injury by their very utterance which is likely to create an unreasonable risk of harm to the College Community, the appropriate Admissions Office may either proceed to admit the Applicant without making a referral to the Committee established pursuant to Section 3.2 or may refer the Applicant to the Committee. The decision to refer an Applicant to the Committee should be made when the Admissions Office in good faith believes that the Applicant may pose a risk of harm to the College Community.

(b) Notwithstanding the provisions of Section 3.1(a), the Admissions Office shall not make a favorable recommendation for the offer of admission to such an Applicant unless it has first determined that the Applicant: (1) has completed, or is likely to complete within a reasonable period of time, all conditions of parole, including restitution and other conditions of release, in the case of a crime, and all condition or sanctions, in the case of a disciplinary proceeding; and (2) does not present an unreasonable risk of harm to the College Community if such Applicant were enrolled at the College.

3.3 Applicant Safety Assessment Board

(a) There is hereby established an Applicant Conduct and Safety Assessment Committee (the "Committee") that shall be responsible for assessing and evaluating whether an Applicant's past behavior or conduct, as evidenced by the Applicant's criminal record, conduct and/or disciplinary history, presents a credible and unreasonable risk of harm to the College Community. The Committee may not take any directive action with respect to any such Applicant but is authorized to make recommendations to the appropriate

Admissions Office in accordance with the provisions of this Policy. All such assessment and recommendations shall be made in a timely manner, as provided for in subsection (d) of this Section 3.2, and with due regard for such confidentiality as may be appropriate under the circumstances.

(b) The Committee that shall be composed of those individuals occupying the following College positions:

- (1) Dean or Director of Admissions, who shall serve as the Chair;
- (2) Director of SC Recruitment and Access Initiatives;
- (3) Director of Graduate Admissions,
- (4) Director of Summer Sessions;
- (5) Dean of Students;
- (6) Speaker of the Faculty; and
- (7) Chief of Public Safety
- (8) Director of Recruitment (out of state)

The members of the committee, except for the Chair may appoint a designee to serve on this Committee.

The General Counsel, or their designee, shall serve as legal counsel to the Committee.

3.4 Responsibilities and Time Limitations –

(a) Each Admissions Office shall refer to the Committee all Applicants who are likely to be extended an offer for admission, and who have been convicted of a crime and/or have been the subject of a disciplinary action or have otherwise been accused of misconduct likely to cause unreasonable harm to the safety of the College Community, except as provided in Section 3.2.

(b) The Committee shall commence its review of a referred matter within a reasonable time within the application review period, generally not to exceed 45 business days unless referral is not reasonably practicable within that timeframe. To the maximum extent practicable under the circumstances, the Committee shall conclude its consideration of a referred matter within 45 business days after beginning its review.

(c) The Committee may consider a matter only upon the referral of an Admissions Office or otherwise requested by the General Counsel or the Dean or Director of Admissions and such consideration shall be conducted in accord with this Policy and such provisions of law, rule or regulation as may be applicable.

(d) Each Admissions Office and officer shall ensure that its Applicants for admission are given notice that Applicants with criminal records, or other disciplinary conduct histories may be asked to undergo a Background Check, or other appropriate action as a part of the admissions process pursuant to this Policy. Notice shall include reference to this policy and a link to the policy online or a copy attached thereto. Each Applicant shall

acknowledge and certify understanding of this policy in their application by signing the certification contained therein which shall be materially the same as the following:

Certification and Honor Code Compliance

Important: All applicants must read and certify.

I certify all information provided on this application and supplementary materials is correct and complete. I understand information contained herein may be disclosed for consideration of admission, financial aid and recruitment purposes. Personal contact information may be provided to groups outside of the College to support admissions recruitment efforts. No confidential information will be shared. I understand I am responsible for forwarding official and final transcripts from all schools previously attended, and that such transcripts become property of the College of Charleston. If I enroll, I agree to abide by its Honor Code and the rules and regulations of the College. Furthermore, I understand any untruthful, omitted or incomplete statement in this application could result in my application being denied or my immediate dismissal.

Reporting criminal or disciplinary information: I understand that I am required to notify and update the Office of Admissions if any disciplinary or criminal incident occurs after submission of this application and prior to my enrollment and consent to a background check according to "<https://policy.cofc.edu/documents/8.1.5.pdf>" [policy](#) outlining the process for admission of students with disciplinary, criminal and misconduct . **I have read and understand these conditions:**

4.1 COMMITTEE PROCEDURES

4.2 Meetings -- Meetings of the Committee shall be called by the Chair upon such notice as the Chair believes reasonable under the circumstances. For the Committee to conduct any business, a majority of the Committee's members must be in attendance, either in person or by virtual / electronic means such as by telephone, videoconference, or similar technology. No recommendation may be taken by the Committee except by a majority vote of the members in attendance. Voting must be at a meeting and may not be by proxy; however, voting may be conducted by electronic or virtual means by any member in attendance. If there is a tie vote of the Committee, the relevant Admissions Office shall proceed to make an admission decision on the pending matter without the benefit of a recommendation from the Committee.

4.3 Referrals -- Upon receipt of a referred matter from an Admissions Office, the Committee must permit the Applicant (either directly or through the Admissions Office) to submit such information to the Committee as may be of assistance to its deliberations. The Committee may require that the Applicant appear before the Committee *via* video, phone, or in person. Upon request to the Chair of the Committee, the Applicant may also request that they be allowed to appear before the Committee, which request shall not be unreasonably denied.

4.4 Background Checks – During the course of its deliberations the Committee may have a vendor conduct a Background Check on an Applicant and/or may use information that has been provided by the Applicant and any other source including, but not limited to, an office of a College, a local, state, or federal agency, or a foreign government or instrumentality of a foreign government, or other credible source. When applicable, prior to conducting any Background Check through a vendor the College will obtain a written

authorization from the Applicant, as may be required by law, and will advise such Applicant that such a report may be obtained for admission purposes (see Appendix B). The cost of the vendor's report or other Background Check external to the College shall be paid by the Applicant. If an Applicant does not provide consent, then the application shall be deemed incomplete.

4.5 No Inference -- A negative inference may not be drawn by the Applicant's decision not to provide additional information or to provide consent for a Background Check. In such an event the application submitted by the Applicant shall be considered incomplete and shall not be processed any further.

4.6 Recommendations -- At the conclusion of its deliberations on a referred matter the Committee may adopt one of the following three recommendations:

- (a) the Applicant be denied admission or have their admission revoked prior to becoming an Enrolled Student on the basis that the Applicant presents a credible and unreasonable risk of harm to the College Community and that such Applicant be declared ineligible for admission for a specified period of time or until such risk has been sufficiently mitigated;
- (b) the Applicant not be denied admission or have their admission revoked on the basis that the Applicant presents a credible and unreasonable risk of harm to the College Community;
- (c) the Applicant not be admitted, or their admission be revoked, unless the Applicant first undertakes specified actions reasonably calculated by the Committee to mitigate the risk to the College Community; or
- (d) the Applicant be conditionally admitted or have their admission conditionally unrevoked based on adequate assurances from the Applicant that they will consent to periodic assessments and evaluations and not engage in any violation of law or the *Student Code of Conduct*.

4.7 External Reports -- If a negative admissions decision is probable based in whole or in part on a background report from a vendor, the appropriate Admissions Office shall notify the Applicant that such action is probable and that the Applicant may challenge the veracity and completeness of the report in an appeal conducted pursuant to Section 7.0. The Admissions Office shall include the following documents with the notification: a copy of the background check report and a copy of any documents that may be required under law, such as a "*Summary of Your Rights Under the Fair Credit Reporting Act.*"

4.8 Other Reports -- If a negative admissions decision is probable based in whole or in part on a Background Check not provided by a vendor or on other information, the Admissions Office shall inform the Applicant of the Committee's recommendation and the basis for the Committee's recommendation and the Applicant shall be provided an opportunity to appeal that recommendation pursuant to Section 7.0.

4.9 Use of Juvenile Offense Records – An Applicant who is 18 years of age or older, or the parents/legal guardian of an Applicant below the age of 18, may consent to make juvenile offense records of the Applicant available for review by the Committee. If the Applicant declines, the evaluation of the risk of harm shall take place without the benefit of such records. A negative inference may not be drawn by the Applicant's decision not to provide juvenile offense records.

5.1 EVALUATION FACTORS

Except as provided for in Section 6.0 (dealing with Disqualifying Crimes and Disqualifying Disciplinary actions), when determining whether an Applicant's criminal record and/or history of misconduct, presents a credible and unreasonable risk of harm to the College Community, the following non-exclusive factors shall be taken into account to the extent applicable to the individual history of the Applicant:

- (a) The nature of the crime or misconduct;
- (b) The circumstances surrounding the crime or misconduct;
- (c) Whether violence was involved with the crime or misconduct;
- (d) The existence, number and type of other incidents of crime or misconduct by the Applicant;
- (e) Any pattern of misconduct;
- (f) The time that has elapsed since the Conviction or misconduct;
- (g) The actions or activities of the Applicant since the date(s) of the reported crime(s) or misconduct;
- (h) The nature of the State, federal or foreign laws involved;
- (i) The institutional policies involved;
- (j) The honesty of the Applicant in disclosing and/or explaining the crime or
- (k) Professional opinions about the possibility or likelihood of future criminal behavior or other misconduct; and
- (l) defenses and/or mitigating circumstances asserted by the Applicant.

6.1 DISQUALIFYING CRIMES AND DISQUALIFYING DISCIPLINE

6.2 Crimes -- No person shall be admitted to the College who, within the 5 year period prior to the date of the submitted application, has been convicted of a Crime of Violence as defined in Appendix A.

6.3 Discipline -- No person shall be admitted to the College who, within the 2 year period prior to application, has been the subject of a disciplinary action taken by a secondary school or an institution of higher education if such action involved: (a) the Applicant's expulsion or a suspension of more than 10 school days; and (b) such expulsion or suspension was due to an act of violence (defined as any act that would violate any of the "violent crime" offenses set forth in Appendix A).

7.1 APPEALS

7.2 Notice of Adverse Recommendation -- Before making a final decision on the admission of an Applicant based on the recommendation of the Committee, the appropriate Admissions Office shall provide written notice to the Applicant (the "Notice") and shall give the Applicant five (5) business days (the "Response Period") to respond to or challenge the Committee's recommendation and/or the Background Check on which it is based (an "Appeal"). The appropriate Admissions Office shall immediately provide copies of the Appeal to the Committee and to the Decisional Authority. Thereafter, the Committee may, at its election, prepare a response to the Appeal that it shall submit to the Decisional Authority.

7.3 Content of Appeal -- The Appeal submitted by the Applicant shall state the factual or other basis for the appeal, the relief requested, and shall provide any additional relevant information on what, if any, risk the Applicant presents for the safety of the College Community. Appeals shall be in writing and must be received by the appropriate Admissions Office within 5 calendar days of receipt of the Notice by the Applicant.

7.4 Standards of Review on Appeal -- Upon an appeal, the findings of the Admissions Office will be overturned only if the Decisional Authority determines that there was no circumstance under which a reasonable person could reach the same conclusions or opinions based on the information, documents and record of deliberations. The Decisional Authority shall provide written notice of the decision upon appeal to the Admissions Office and the Applicant within a reasonable time of, but not more than 30 days from, receipt of all of the information and documents submitted by the Applicant and the Committee.

8.1 CONFIDENTIALITY

8.2 Non-Disclosure Agreements -- All members of the Committee, and all others providing professional services to the Committee, shall be required to sign an appropriate confidentiality agreement prepared by the Office of Legal Affairs to ensure the confidentiality of any information gained through their position on the Committee or work as a vendor or service-provider to the Committee.

8.3 Confidential Information – The Committee shall maintain such records as may be necessary and appropriate to perform its responsibilities under this Policy. The Committee shall conduct its operations and maintain its records in a manner that is fully compliant with applicable law and the *Privacy Policy* of the College of Charleston (<http://www.cofc.edu/policies/privacypolicy/index.php>). Information received as the result of a Background Check shall be maintained as "confidential" and access to such information shall be restricted to employees that have a need to know such information in order to perform their respective job responsibilities. After use by the Committee, all such records and information for enrolling students shall be transferred to the Office of the Dean of Students and shall be maintained confidentially and securely in that Office. Records and information for other Applicants considered by the Committee shall be maintained for a period of five (5) years by the Office of the Dean of Students.

9.0 CONTINUING REVIEW

Upon the receipt of credible information that a current student failed to disclose, or to accurately and completely disclose, a Conviction and/or disciplinary action, as required in their admissions application form, the matter shall be referred to the Committee, which shall investigate and make a recommendation concerning the student's conduct. If the student is found to have committed misconduct, the College may rescind its offer of admission, expel the student from the College or mandate such other disciplinary activity as it deems appropriate. Any conduct occurring after the date of enrollment and registration for classes shall be governed by the student Code of Conduct and the Office of the Dean of Students any misconduct after admission, but prior to enrollment and registration for classes, shall be governed by the Code of Conduct and the Committee.

10.0 RESPONSIBILITY

The Dean of Students and Dean/Director of Admissions shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three-year period.

11.0 AMENDMENTS

This Policy may be amended at any time in accordance with the Colleges *Campus Wide Policy Making Procedures*.

APPENDIX A

§ 16-1-60. Violent crimes defined.

For purposes of definition under South Carolina law, a violent crime includes the following offenses under South Carolina law or a significantly similar offense in another jurisdiction: murder (*Section 16-3-10*); attempted murder (*Section 16-3-29*); assault and battery by mob, first degree, resulting in death (*Section 16-3-210(B)*), criminal sexual conduct in the first and second degree (*Sections 16-3-652 and 16-3-653*); criminal sexual conduct with minors, first and second degree (*Section 16-3-655*); assault with intent to commit criminal sexual conduct, first and second degree (*Section 16-3-656*); assault and battery with intent to kill (*Section 16-3-620*); assault and battery of a high and aggravated nature (*Section 16-3-600(B)*); kidnapping (*Section 16-3-910*); trafficking in persons (*Section 16-3-930*); voluntary manslaughter (*Section 16-3-50*); armed robbery (*Section 16-11-330(A)*); attempted armed robbery (*Section 16-11-330(B)*); carjacking (*Section 16-3-1075*); drug trafficking as defined in *Section 44-53-370(e)* or trafficking cocaine base as defined in *Section 44-53-375(C)*; manufacturing or trafficking methamphetamine as defined in *Section 44-53-375*; arson in the first degree (*Section 16-11-110(A)*); arson in the second degree (*Section 16-11-110(B)*); burglary in the first degree (*Section 16-11-311*); burglary in the second degree (*Section 16-11-312(B)*); engaging a child for a sexual performance (*Section 16-3-810*); homicide by child abuse (*Section 16-3-85(A)(1)*); aiding and abetting homicide by child abuse (*Section 16-3-85(A)(2)*); inflicting great bodily injury upon a child (*Section 16-3-95(A)*); allowing great bodily injury to be inflicted upon a child (*Section 16-3-95(B)*); criminal domestic violence of a high and aggravated nature (*Section 16-25-65*); abuse or neglect of a vulnerable adult resulting in death (*Section 43-35-85(F)*); abuse or neglect of a vulnerable adult resulting in great bodily injury (*Section 43-35-85(E)*); taking of a hostage by an inmate (*Section 24-13-450*); detonating a destructive device upon the capitol grounds resulting in death with malice (*Section 10-11-325(B)(1)*); spousal sexual battery (*Section 16-3-615*); producing, directing, or promoting sexual performance by a child (*Section 16-3-820*); lewd act upon a child under sixteen (*Section 16-15-140*); sexual exploitation of a minor first degree (*Section 16-15-395*); sexual exploitation of a minor second degree (*Section 16-15-405*); promoting prostitution of a minor (*Section 16-15-415*); participating in prostitution of a minor (*Section 16-15-425*); aggravated voyeurism (*Section 16-17-470(C)*); detonating a destructive device resulting in death with malice (*Section 16-23-720(A)(1)*); detonating a destructive device resulting in death without malice (*Section 16-23-720(A)(2)*); boating under the influence resulting in death (*Section 50-21-113(A)(2)*); vessel operator's failure to render assistance resulting in death (*Section 50-21-130(A)(3)*); damaging an airport facility or removing equipment resulting in death (*Section 55-1-30(3)*); failure to stop when signaled by a law enforcement vehicle resulting in death (*Section 56-5-750(C)(2)*); interference with traffic-control devices, railroad signs, or signals resulting in death (*Section 56-5-1030(B)(3)*); hit and run resulting in death (*Section 56-5-1210(A)(3)*); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (*Section 56-5-2945(A)(2)*); putting destructive or injurious materials on a highway resulting in death (*Section 57-7-20(D)*); obstruction of a railroad resulting in death (*Section 58-17-4090*); accessory before the fact to commit any of the above offenses (*Section 16-1-40*); and attempt to commit any of the above offenses (*Section 16-1-80*).

Only those offenses specifically enumerated in this section are considered violent offenses.

Departments/Offices Affected by the Policy

The Division of Academic Affairs and the Division of Student Affairs, Offices of Admission.

Procedures Related to the Policy

Admissions Policy 12.1.6 and 12.1.7
12.4.2 Student Code of Conduct

Related Policies, Documents or Forms

Confidentiality agreement for committee members; applications for admission; honor code certification statement; Student Code of Conduct

Issue Date: 9-10-20 Date of Policy Revision:9-10-20	Next Review Date: 9/10/2023
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POLICY APPROVAL

(For use by the Office of the Board of Trustees or the Office of the President)

Policy Number: 8.1.5

President or
Chairman, Board of Trustees



Date: 5.24.2021