



Undergraduate Admissions Procedures Related To Criminal Background

PRESENTED BY Philip Evers, Chair

REVIEW DATES SEC – March 12, 2018 | SENATE – April 4, 2018

VOTING METHOD In a single vote

**RELEVANT
POLICY/DOCUMENT** NA

**NECESSARY
APPROVALS** Senate, President

ISSUE

In February 2017, the Senate Executive Committee discussed the questions in the University's undergraduate admissions process related to criminal and disciplinary history. Concerns were raised that the questions could disproportionately discourage students with arrest records from applying to the University. The SEC considered whether there might be unintended consequences to asking such questions, and determined that further review was needed. The SEC charged the Senate Academic Procedures & Standards (APAS) Committee with considering the implications of asking applicants to disclose criminal history in the admissions process.

RECOMMENDATION(S)

The APAS Committee recommends that the University should continue to ask Judicial Information questions on its undergraduate admissions application. The APAS Committee recommends that the current questions be revised as noted in the report. The questions should continue to be answered with a yes or no answer, and if an applicant answers yes to any of the questions, they should continue to be asked to provide a detailed description on the situation and its resolution.

The APAS Committee also recommends that the text that precedes the questions on the application be revised to more strongly indicate the University's commitment to ensuring educational opportunities for those who may have a criminal background and to more clearly articulate the process for reviewing the responses to the questions on the application. The committee suggests text in the report to be considered as a replacement for the current text.

The APAS Committee recommends that the Office of Undergraduate Admissions and the Office of Student Conduct should consider how data regarding criminal background responses should be collected and kept.

The APAS Committee recommends that the Office of Undergraduate Admissions and the Office of Student Conduct should consider strategies for ensuring that students are given appropriate information on the University services and resources available to them after they enroll.

COMMITTEE WORK

The APAS Committee consulted with representatives from the Office of Undergraduate Admissions, the Office of Student Conduct, and the Office of General Counsel throughout its review. APAS reviewed the current application questions, considered proposed questions from the Coalition for Student Success, gathered information on practices at Big 10 and other peer institutions, and reviewed research related to the impact criminal history can have on the ability to access educational and social opportunities.

In reviewing the application, APAS found that the questions are broad and ask applicants to disclose nearly any disciplinary action or criminal offenses they have ever been charged with. The responses to these questions are reviewed separately from the rest of the application. An application is first reviewed to assess academic eligibility. If the applicant is academically eligible, the Judicial Information responses are assessed by the Office of Student Conduct. Less than 1% of applicants answer yes to one or more of the questions in the Judicial Information section, and it is very rare for academically eligible applicants to be denied admission.

The APAS Committee had difficulty identifying a clear problem that needs to be addressed by a change in practice. While there is certainly a perception that questions on the application could pose a barrier to entry to higher education, there is no indication that UMD's questions or process have a negative impact on prospective applicants. Due to data collection limitations, APAS could not assess how many applicants respond affirmatively to the Judicial Information questions but choose not to submit the application. There is no clear indication that the process is causing difficulty or concern for applicants.

APAS agrees that there is a perception that these questions pose a barrier to entry, but acknowledged that the institution has to balance the openness of its application process with the safety of the campus community. The APAS Committee determined that the University should continue to ask questions regarding criminal and disciplinary history in the undergraduate admissions process. However, during its review, it found that the University's current questions are too broad and require applicants to disclose information that should not be considered. APAS also determined that the University could do more to communicate to applicants how the information provided will be considered. APAS developed revised questions and proposed revisions to the application text for consideration.

ALTERNATIVES

The Senate could choose not to accept the recommendations. However, it would lose the opportunity to revise the questions and provide more clarity to applicants, and the current questions and process would remain.

RISKS

There are no known risks to the University.

FINANCIAL IMPLICATIONS

There are no known financial implications.



Undergraduate Admissions Procedures Related To Criminal Background

2017-2018 Committee Members

Philip Evers (Chair)
Tahirah Akbar-Williams (Faculty)
Michael Ambrose (Faculty)
Kate Carter (Undergraduate)
William Cohen (Ex-Officio Provost's Rep)
Linda Coleman (Faculty)
Adrian Cornelius (Ex-Officio University Registrar)
Jacob Fishbein (Undergraduate)
Jeffrey Franke (Ex-Officio Graduate School Rep)
Susan Hendricks (Faculty)
Agisilaos Iliadis (Faculty)
Anjali Kalaria (Undergraduate)
Lisa Kiely (Ex-Officio Undergraduate Studies Rep)

Byung-Eun Kim (Faculty)
Maria Cristina Layana (Graduate Student)
Marilee Lindemann (Faculty)
Celina McDonald (Faculty)
Britt Reynolds (Ex-Officio Rep for Director of Undergraduate Admissions)
Michael Sparrow (Exempt Staff)
David Straney (Faculty)
Elizabeth Warner (Faculty)

Date of Submission

March 2018

BACKGROUND

In February 2017, the Senate Executive Committee discussed issues related to the questions in the University's undergraduate admissions process on criminal and disciplinary history. Concerns were raised that asking such questions could disproportionately discourage students with arrest records from applying to the University. The SEC considered whether there might be unintended consequences to asking such questions, and determined that further review was needed. The Senate Executive Committee (SEC) voted to charge the Senate Academic Procedures & Standards (APAS) Committee with considering the implications of asking applicants to disclose criminal history in the admissions process and with making recommendations if appropriate (Appendix 2).

CURRENT PRACTICE

The current University of Maryland (UMD) undergraduate admissions application is hosted by a third-party application through the Coalition for Student Success. The application asks a series of questions regarding an applicant's criminal and disciplinary background. The application text and questions in the Judicial Information portion of the undergraduate application can be seen in Appendix 1. The text preceding the application explains that the questions are asked as part of an effort to provide a safe campus and learning environment, and that an affirmative response to the questions does not automatically result in a denial of admission. The application asks whether the applicant: has had disciplinary action initiated against them at any institution attended; has ever been charged with, pleaded guilty to, or been found guilty of any criminal offense for which charges have not been expunged; has criminal charges pending against them; or has ever received formal disciplinary action or a dishonorable discharge from any branch of the military. If the applicant responds affirmatively to any of these questions, they are asked to provide detailed information on the situation and its resolution.

COMMITTEE WORK

The Academic Procedures & Standards (APAS) Committee began reviewing its charge immediately upon receiving it in spring 2017. APAS consulted with representatives from the Office of Undergraduate Admissions, the Office of Student Conduct, and the Office of General Counsel throughout its review. APAS reviewed the current application questions, considered proposed questions from the Coalition for Student Success, gathered information on practices at Big 10 and other peer institutions, and reviewed research related to the impact criminal history can have on the ability to access educational and social opportunities.

The APAS Committee reviewed the current admissions questions and the text preceding the questions carefully. The committee noted that the questions are broad, and ask applicants to disclose any disciplinary action or criminal offenses they have ever been charged with, except for minor traffic violations or incidents that have been expunged from an applicant's record.

In consulting with representatives from the Office of Undergraduate Admissions and the Office of Student Conduct (OSC), APAS learned that there has been a process in place for considering disciplinary history for many years. When an application is submitted, Undergraduate Admissions initiates a review for academic eligibility. This review is completed without consideration of responses on the Judicial Information portion of the application. A preliminary determination is made as to whether the applicant would be academically eligible for admission. If an applicant would be academically eligible, Undergraduate Admissions assesses the Judicial Information responses to determine if they need further review. If the applicant has responded affirmatively to any of the criminal or disciplinary history questions, Undergraduate Admissions asks the OSC to review the information provided and make a recommendation on whether the applicant should be cleared for enrollment from a conduct perspective.

When the OSC reviews the Judicial Information responses, it can ask for additional information or documentation from the applicant, conduct in-person or phone interviews, and take other steps to fully consider the relevant circumstances. The OSC typically contacts the applicant and asks them to provide more information about the nature of the incident or conduct; how the incident impacted them, their community, and their family or support system; how they learned from the incident; and information about their conduct since the incident. For low-level violations, the OSC reviews the information and typically moves forward with a recommendation to clear the applicant for admission without an exhaustive review. In cases where the type of conduct described could pose a higher risk to the University community, or in cases where the conduct described would typically lead to a sanction involving suspension or expulsion if the conduct occurred at the University of Maryland, the OSC may ask for additional information or offer the applicant the opportunity to have an interview to discuss the incident further before the OSC makes a final recommendation to Undergraduate Admissions. Applicants may be asked to provide supporting documentation to OSC to facilitate the review process. After review, the OSC will make a recommendation to Undergraduate Admissions, which then makes a final determination on whether to admit an applicant based on the totality of the information they have about the applicant. The final determination is then communicated to the applicant.

APAS learned that a very small number of applicants to the University give an affirmative response to any of the questions in the Judicial Information section of the application; typically, less than 1% of applicants answer yes to one or more of the questions. For academically eligible applicants, after review of the Judicial Information responses and any additional information collected by the OSC, it is very rare for students to be denied admission, though some applicants are not given a positive

recommendation by the OSC because they failed to respond or provide requested additional information. The vast majority of responses reviewed by the OSC involve minor violations or are cases of students who apply to reenroll after they were dismissed from UMD or from another institution for conduct-related issues.

APAS reviewed the processes and questions at Big 10 and other peer institutions, with the assistance of existing Big Ten Academic Alliance networks. Information was provided to the committee for nine institutions. Of those who responded to the request for information, six institutions ask criminal and/or disciplinary history questions in the application, two do not ask such questions, and one asks such questions after an admissions decision has been communicated, as a requirement prior to enrollment. Institutions that ask these questions typically do so in the interest of maintaining a safe learning environment, and review the responses with the health and safety of the campus community in mind. Institutions vary on the types of questions asked; some institutions ask focused questions about criminal convictions or specific types of criminal history such as history of sexual misconduct charges, where others ask broader questions that cover any charges the applicant has ever had against them. Most institutions ask questions regarding past academic or non-academic disciplinary action in educational environments. In most cases, the responses to the questions are reviewed either by a committee or by staff members who have training or expertise relevant to campus safety.

In its efforts to understand the problem underlying its charge, APAS reviewed available research related to undergraduate admissions and criminal records to consider whether there is evidence that shows that prospective applicants are discouraged. Limited research exists about this topic. A 2009 [survey](#) of higher education practices in this area conducted by the American Association of Collegiate Registrars and Admissions Officers in collaboration with the Center for Community Alternatives indicated that a majority of institutions collect some information regarding criminal backgrounds, and self-disclosure through applications is the most common source of information. [Further research](#) by the Center for Community Alternatives on criminal background questions in the State University of New York (SUNY) system found a “felony attrition rate” in the SUNY System, where two out of every three applicants who responded affirmatively to a question on criminal background did not submit the application. The study estimated that a large percentage of applicants are denied admission because they do not complete the application process and therefore cannot be considered.

In addition to reviewing peer institutions practices and recent research, the APAS Committee considered the legal framework on this issue in the State of Maryland. While APAS was considering this charge, the Maryland General Assembly introduced and approved legislation related to criminal history in the undergraduate admissions process ([HB0694/SB0543](#), Maryland Fair Access to Education Act of 2017). The legislation’s purpose was to limit the use of criminal history information in the admissions process. The legislation indicated that an institution of higher education should not use any information about a student’s criminal history to automatically or unreasonably restrict a student’s admission. With passage of this legislation, the General Assembly intended to promote the admission of students with criminal records, including formerly incarcerated students, to provide them with the opportunity to obtain the knowledge and skills needed to contribute to the State’s economy. The legislation was approved in April 2017, vetoed by the Governor in May 2017, and the veto was overridden by the General Assembly in January 2018. Institutions that create and manage their own application are not allowed to include criminal history questions on the application. Institutions that use a third-party application may include criminal history questions, but should include information on their website that clarifies that criminal history does not disqualify applicants

from admission. The University of Maryland uses a third-party application, hosted by the Coalition for Student Success, which can include criminal history questions.

As the APAS Committee considered the issues and concerns raised by the Senate Executive Committee, it had difficulty identifying a clear problem that needs to be addressed by a change in practice. While there is certainly a perception that questions on the application could pose a barrier to entry to higher education, there is no indication that UMD's questions or process have a negative impact on prospective applicants. APAS found it was limited in its capacity to assess this question, in part because it did not have data to guide its consideration. The University does not have access to statistics or data from the vendor who provides the application; and the data collected by the University is limited to data regarding applicants who submit the completed application. As a result, APAS could not assess how many applicants respond affirmatively to the Judicial Information questions but choose not to submit the application. Undergraduate Admissions has not received inquiries or questions from applicants, their families, or high school counselors regarding these questions on the application, and thus has no indication that the process is causing difficulty or concern for applicants.

APAS agrees that there is a perception that these questions pose a barrier to entry, but acknowledged that the institution has to balance the openness of its application process with the safety of the campus community. The committee discussed the importance of the review by the OSC, which considers patterns of behavior that could be problematic to the campus community. While most applicants with judicial history are forthcoming with information and sincerely trying to move on from a prior incident, some applicants may display a pattern of egregious conduct that would pose a risk to the UMD community. UMD has had many instances of students with criminal convictions or past incarcerations who have become successful and meritorious students at the University, and the APAS Committee is encouraged by the very low numbers of students who are denied admission after review by the OSC.

As it considered the legislation from the General Assembly, the APAS Committee considered the suggestion within that institutions could continue to ask these questions at a point after the admissions application. For instance, the University could ask criminal history questions prior to allowing students to register for housing or enroll in specific programs. However, APAS found there would likely be unintended consequences with such a system and felt it would be difficult to identify an access point that would reach all incoming undergraduate students. Since the undergraduate admissions process is currently the only access point that serves as a gateway for all incoming students, the University would need to devise a new system and procedure for asking these questions, which would be cost prohibitive and administratively burdensome, given the decentralized nature of this University.

The APAS Committee determined that the University should continue to ask questions regarding criminal and disciplinary history in the undergraduate admissions process. However, during its review, it found that the University's current questions are too broad and require applicants to disclose information that should not be factored into decisions on conduct clearances. The current questions require an applicant to disclose disciplinary action that has been "initiated against" them, which could include actions that were dropped or dismissed, as well as criminal charges that did not result in a conviction. With the current questions, arrest records would need to be disclosed. The committee agreed that questions focused on criminal charges and disciplinary action that was taken against an applicant would be more narrowly tailored to the information the University needs to make an assessment.

APAS also determined that the University could do more to communicate to applicants how the information provided will be considered. UMD's review process clearly separates review for academic eligibility and review of the Judicial Information responses, but that may not be apparent to applicants when they are responding to the questions. APAS suggests that applicants may be more likely to complete the application if they understand how the information provided will be reviewed, and if it is made clear that a positive response to the questions does not disqualify an applicant from admission.

APAS developed revised questions and proposed revisions to the application text for consideration. APAS also developed recommendations related to data collection and tracking, so that future efforts to address this question can be informed by data to the extent possible, as well as on ensuring that students who are admitted after a conduct clearance have access to services on campus that could be useful to them. In its review, the committee learned that applicants who go through the conduct clearance process are occasionally given information on campus resources they could access if they were to enroll; the committee felt enhancing information available to applicants could be a useful tool in ensuring their success once they join the University community. After due consideration, the APAS Committee voted to approve its recommendations on March 5, 2018.

RECOMMENDATIONS

The APAS Committee recommends that the University should continue to ask Judicial Information questions on its undergraduate admissions application. The APAS Committee recommends that the current questions be revised to ask the following questions:

Have you ever been convicted of a crime?

Do you have criminal charges pending against you?

Have you ever had disciplinary action (academic or non-academic) taken against you at any educational institutions you have attended?

Have you ever had disciplinary action taken against you by any branch of the military?

Do you have a restraining order pending against you?

The questions should continue to be answered with a yes or no answer, and if an applicant answers yes to any of the questions, they should continue to be asked to provide a detailed description on the situation and its resolution.

The APAS Committee also recommends that the text that precedes the questions on the application be revised to more strongly indicate the University's commitment to ensuring educational opportunities for those who may have a criminal background and to more clearly articulate the process for reviewing the responses to the questions on the application. The committee suggests the following text should be considered as a replacement for the current text:

The University is committed to providing equal educational opportunities. The University also strives to ensure a safe campus and learning environment. Therefore, while the University asks questions about disciplinary and criminal history, a positive answer to these questions does not automatically disqualify an applicant for admission.

In the admission process, applications are reviewed for academic eligibility without consideration of whether the applicant answered yes to any of these questions. After an applicant is determined to be academically eligible, a separate review of disciplinary history is conducted prior to a final determination on admission. All relevant circumstances will be considered. The University reserves the right to request further information from the applicant

to verify the information disclosed. In addition, applicants who are admitted may be required, as a condition of participation in certain programs, to complete a criminal history consent form, and agree to a criminal background check.

When answering the questions below, please note that you are not required to report information related to minor traffic violations or records that have been expunged.

Please note: You are required to update the Office of Undergraduate Admissions at ApplyMaryland@umd.edu (please use the subject line “Disciplinary Update”) should a situation take place that would cause your answer to one of the below questions to change. This includes, but is not limited to, any criminal convictions or disciplinary actions taken against you after the time of application submission through the start of classes of your first semester at the University.

The APAS Committee recommends that the Office of Undergraduate Admissions and the Office of Student Conduct should consider how data regarding criminal background responses should be collected and kept.

The APAS Committee recommends that the Office of Undergraduate Admissions and the Office of Student Conduct should consider strategies for ensuring that students are given appropriate information on the University services and resources available to them after they enroll.

APPENDICES

- Appendix 1 — 2017-2018 Application Text and Questions on Judicial Information
- Appendix 2 — Charge from the Senate Executive Committee

Judicial Information

The University of Maryland strives to provide a safe campus and learning environment. The University thus asks questions about an applicant's criminal history. An affirmative response to any of these questions will not result in an automatic denial of admission or enrollment. All relevant circumstances will be considered. The University reserves the right to request further information from the applicant to verify the information disclosed. In addition, applicants who are admitted may be required, as a condition of participation in certain programs, to complete a criminal history consent form, and agree to a criminal background check.

Please note: You are required to update the Office of Undergraduate Admissions at ApplyMaryland@umd.edu (please use the subject line "Disciplinary Update") should a situation take place that would cause your answer to one of the below questions to change. This includes, but is not limited to, any criminal convictions or disciplinary actions taken against you after the time of application submission through the start of classes of your first semester at the University.

*Has disciplinary action been initiated against you at any of the institutions attended, including the University of Maryland?

Yes

No

*Have you ever been charged with, pleaded guilty to, or been found guilty of any criminal offense, other than a minor traffic violation, for which charges have not been expunged?

Yes

No

*Do you currently have criminal charges pending against you, excluding minor traffic violations?

Yes

No

*Have you ever received formal disciplinary action or a dishonorable discharge from any branch of the military?

Yes

No

*If you have answered yes to any of the questions above, please include a detailed statement describing the situation and its resolution.



**University Senate
CHARGE**

Date:	March 10, 2017
To:	Philip Evers Chair, Academic Procedures & Standards
From:	Jordan A. Goodman Chair, University Senate 
Subject:	Undergraduate Admissions Procedures Related to Criminal Background
Senate Document #:	16-17-29
Deadline:	February 9, 2018

The Senate Executive Committee (SEC) requests that the Academic Procedures & Standards (APAS) Committee consider issues related to asking potential undergraduate applicants to report criminal history in the admissions process.

Specifically, we ask that you:

1. Review any questions related to criminal background on the University of Maryland undergraduate admissions application.
2. Review undergraduate admissions applications questions and related procedures at peer institutions and other Big 10 institutions to understand their processes for reporting of criminal background information during the admissions process.
3. Consult with a representative from the Undergraduate Admissions Office to understand the current admissions process.
4. Consult with a representative from the Office of Student Conduct to understand its role in evaluating applicants who report past criminal history.
5. Consider whether including a question related to criminal background could discourage prospective students from applying to the university.
6. Consider the potential impact of this type of question on applicants from underrepresented minority groups.
7. Consult with the University's Office of General Counsel on any proposed changes.

8. If appropriate, recommend whether the current admissions processes should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than February 9, 2018. If you have any questions or need assistance, please contact Reka Montfort in the Senate Office at [301-405-5804](tel:301-405-5804) or reka@umd.edu.

JAG/rm