

Colorado Mesa University & Western Colorado Community College Policy Regarding Applicants for Student Admission and Participation in Campus Life with Previous or Pending Criminal or Disciplinary History

I. Purpose and Scope

Colorado Mesa University and Western Colorado Community College, collectively referred to herein as CMU, are 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, CMU has implemented the following process and procedure for the collection and consideration of previous or pending disciplinary and criminal history for applicants and admitted applicants for the purposes of student admission and participation in campus life and student housing.

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 CMU
- 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 CMU
- 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 criminal 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. **Admissions Review Committee (ARC)** – a CMU standing committee chaired by the Associate Director of Transfer & Adult Admissions, or designees, and comprised of cross-campus representatives from the Director of Campus Safety and Student Conduct, the CMU Campus Safety Officers (CSOs), the Director of Residence Life, the Registration Manager, and WCCC Student Services.

- L. **Matriculated Applicant** – a person who has been admitted to CMU 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; not including a plea to a deferred judgement and sentence unless and until revoked
- N. **Criminal History** – criminal conduct, any pending criminal charges or being adjudicated guilty or convicted of a misdemeanor or felony; including a plea to a deferred judgment
- 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 ARC completes their pre-admission review, they may determine that the Applicant is eligible for admission and ultimately may enroll at CMU either with or without further Responsive Actions
- Q. **Enrolled Student** – a person who is actively enrolled and attending academic courses at CMU
- R. **Pre-admission** – occurs once an Applicant has applied for admission 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 Admissions Review Committee (ARC), which may include meeting with staff from the Vice President of Student Services or the Office of Student Safety and Conduct, training or educational participation, drug, alcohol, forensic or other evaluation, completion of a behavioral contract or wellness plan, 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 CMU, 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), CMU 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; and
 - 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), CMU will inquire into an Admitted Applicant’s Conduct History when obtaining information pertaining to participation in Campus Life, including campus housing, athletics, club travel, club sports, outdoor recreation programs, study abroad, national student exchange, or other overnight travel.
3. **Conduct Questions:** The ARC 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(s) to Applicants on the Application

In compliance with C.R.S. § 23-5-106.5(2)(b), CMU will notify Applicants on the application that the Applicant is not required to disclose any information contained in sealed records. In compliance with C.R.S. § 23-5-106.5(2)(b) and (4)(b), CMU will notify Applicants on the application that the Applicant has the right to appeal, a decision made based on any information required to be disclosed under C.R.S. § 23-5-106.5(3). All such appeals will proceed pursuant to the below procedures.

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, Registrar’s Office, or Graduate Admissions) 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 ARC in a timely manner, as requested by the ARC. 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 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, Law Enforcement Reports, court documents, and/or any other documentation provided by the Applicant to the chair of the ARC for review.
 - d. **ARC Review and Determination:** The chair will provide the submitted materials to the ARC for review. The ARC 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 ARC 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 ARC will determine that the Applicant is not eligible to enroll and CMU will not offer admission to the Applicant.
- e. **Registered Sex Offenders:** If, at any time, it comes to the attention of the ARC that an Applicant is a registered sex offender, the ARC will refer applicant to the Vice President for Student Services, who shall meet with the applicant to discuss next steps in the admissions process. This meeting may include treatment providers, probation officers, and others working with the Applicant. Any registered sex offender admitted to CMU must comply with any and all registration requirements per state law, and any obligations required by CMU, in addition register with the Grand Junction Police Department.
- f. **Notification of Determination:**
- i. **Not Eligible to Enroll:** If the ARC 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 ARC 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 ARC determines that the Applicant's eligibility to enroll is based on the Applicant's compliance with Responsive Action specified by the ARC, the respective admissions unit will update the admission application with the appropriate admission decision and will send the appropriate notification to the applicant.
- g. **Timeline:** The conduct review process will be completed within a reasonable period of time, and may generally take 30 calendar days following the ARC 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 CMU. If the timeline is expected to exceed 30 days, Applicants will be notified by the ARC of the updated timeline for review.
3. **Post-Admission Affirmative Responses:** After CMU 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. CMU will provide Admitted Applicants with the same notice as set forth in Notice to Applicants, above, to remind the Admitted Applicant that they are not required to disclose any information contained in sealed records, and have 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 Life, including 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). The Admitted Applicant should include any other information they would like considered, including any evidence of rehabilitation or good conduct. The Director of Campus Safety and Student Conduct 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 CMU in a timely manner in the forms provided, or as otherwise requested by CMU staff. Failure to do so may jeopardize eligibility for participation in Campus Life.
- c. **Office of Campus Safety & Student Conduct Preliminary Procedural Review:** The Director of Campus Safety & Student Conduct will review the Admitted Applicant's submitted information, arrest reports, and related court documents, if applicable.
 - i. If the Office of Campus Safety & Student Conduct determines that the Admitted Applicant answered "yes" in error by providing conduct information other than that what was requested, the Office of Campus Safety & Student Conduct may determine no further review is needed and will send notification to the Admitted Applicant.
 - ii. If the Office of Campus Safety & Student Conduct determines that the nature of the crime(s) or offense(s) warrant a further review, then an in-depth investigation by the Director of Campus Safety and Student Conduct will occur to include review of law enforcement report, related court documents and/or any other documentation provided by the Admitted Applicant. The Director of Campus Safety & Student Conduct will also notify the Vice President of Student Services.
- d. **Notification of Determination:** The Director of Campus Safety and Student Conduct will notify the Admitted Applicant of the result of the review and any responsive action required.
- e. **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 a registered sex offender is allowed to reside on campus, they must comply with any and all registration requirements per state law, and any obligations required by CMU, in addition to registering with the Grand Junction Police Department (GJPD).

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 ARC 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 ARC shall determine to what extent eligibility is impacted and any responsive action required. The ARC'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 Vice President of Student Services.

E. Appeals

1. **Scope and Grounds (Admissions):** An Applicant or Admitted Applicant may appeal an ARC determination to be eligible to enroll, not eligible to enroll, or eligible to enroll with stipulations resulting from an ARC review of criminal and/or disciplinary history. Such appeal may 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 ARC'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 may 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 campus housing.
 - 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 Campus Life 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. **Appeal Submission:** All appeals must be in writing. To request an appeal of an admissions decision, the Applicant must submit a letter (which must be postmarked by the deadline) or email to the Director of Admissions within five (5) business days. To request an appeal of a housing decision, the admitted applicant must submit a request to the Director of Residence Life within five (5) business days of the date of the original decision, stating the grounds for the appeal pursuant to above, the action requested, and any and all supporting information for the request. All appeal requests will be sent to the Vice President of Student Services or designee (Appeal Officer).
5. **Review and Determination:** If the Applicant or Admitted Applicant submits an appeal in accordance with time and format requirements herein, the Appeal Officer shall first confirm whether there are applicable grounds for an appeal. If either or both grounds apply, the Appeal Officer will review the appeal and issue their written decision. The appeal decision shall be based on the record of documents provided by the Applicant and the ARC/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. Tardy appeals will not be considered, absent good cause. 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 ARC or the Director of Residence Life and Housing. The Appeal Officer's decision is final.
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 ARC/Residence Life and Housing;
 - b. Reverse the decision made by the ARC/Residence Life and Housing and grant admission with no restrictions;
 - c. Reverse the decision made by the ARC/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 ARC/Residence Life and Housing.

IV. No Limitation on Existing Authority

Nothing herein is intended to, nor shall it, limit CMU 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 CMU 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, CMU's responsive action will not include student admission, denial, or revocation. Nothing in this policy limits CMU from considering its own records related to a student's prior admission at CMU.