

CRIMINAL CONVICTION AND UNETHICAL BEHAVIOR POLICY

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Policy

BCSP has established this policy to assist in evaluating the character of applicants, candidates, certificants and others holding status with BCSP in addition to evaluate the education and professional safety experience qualifications and knowledge of professional safety practice through examinations. BCSP further recognizes the need to certify, retain a credential or authorize other status only to those whose character exemplifies that of a Safety Health and Environmental (SH&E) practitioner. To this end, the Board will take into account the criminal conviction history and unethical behavior(s) of each applicant, candidate, certificant or other person holding status with BCSP.

Purpose

The purpose of this policy and associated procedures is to certify, retain a credential or authorize other status only to those whose character exemplifies that of an SH&E practitioner.

Definitions

Applicants. Individuals who submit a formal application and supporting information seeking to pursue BCSP credentials and whose qualifications are being evaluated to establish whether they are eligible to sit for examinations that may lead to a credential. This may include individuals who have not presented sufficient experience to be eligible for examinations.

Candidates. Individuals who have met the minimum educational, experience or other qualification requirements and are eligible to sit for an examination that may lead to a credential.

Certificants. Individuals to whom BCSP has awarded an interim, final or specialty credential and are in good standing or individuals who have previously held a credential from BCSP and have some rights granted by BCSP to regain a credential.

Other Status with BCSP. Individuals who once held a credential from BCSP and have chosen some other status under BCSP policy and procedures. An example is Leave of Absence.

Applicability

This policy and its associated procedures apply to all applicants, candidates, certificants and others holding status with BCSP. The policy and procedures detail how BCSP will evaluate criminal records and unethical behavior(s) with regard to applying for, pursuing, or holding a credential by BCSP or with regard to retaining any official status with BCSP.

Reporting Requirements

1. Applicants who have been convicted of a felony must report the event on the application form regardless of when the conviction occurred.
2. Applicants who have been convicted of misdemeanors or unethical behavior which occurred within five (5) years of the application date must report such conviction(s).
3. Applicants who have been convicted of minor traffic and petty offenses do not have to be reported. Convictions of Driving under the Influence and similar offenses are not considered minor traffic offenses and must be reported.

Failure to report convictions as delineated above is a material omission of significant information and is cause for denial, suspension, or revocation of a credential or holding status with BCSP. In addition, if convictions are reported other than those required under this policy, they will be considered in making all determinations under this policy.

4. A person currently incarcerated as a result of a felony criminal conviction cannot hold a credential.
5. A person convicted of other offenses are required to be reported under this policy and/or having records of unethical behavior shall be initially evaluated by the Chief Executive Officer (CEO) and BCSP legal counsel.
6. In addition to other factors in evaluating conduct, BCSP will use conviction and unethical behavior information to determine whether the convictions have anything to do with the practice for which the Board would certify someone. In all cases, it is the responsibly of the applicant to provide sufficient detailed information for BCSP to make such determination. Decisions will be based on factors available at the time of review. Failure to provide sufficient information may result in a denial of application.
7. BCSP will make no inquiry into the prior arrest records of applicants, candidates, certificants or others holding status with BCSP, as arrests are merely accusations and not convictions by due process of law. However, in the event a candidate for a credential or a person who holds a credential from BCSP formally and legally is charged with committing a crime, that if convicted would be required to report the conviction to the CEO of BCSP of the charges, such candidate or certificate holder shall inform BCSP within 90 days of being charged.
8. Only those parties determined by the CEO to have a need for the information submitted by the individual or obtained from other sources regarding criminal convictions for purposes of a review and determination of the suitability of an applicant, candidate, certificant or others holding status with BCSP shall be privy to such information.
9. Information on criminal convictions of applicants, candidates, certificants and others holding status with BCSP shall be retained in strict confidence by BCSP.
10. BCSP may act to deny, revoke or suspend a credential or status with BCSP for applicants, candidates, certificants and others holding status with BCSP who are found to have falsified or used without authority any BCSP or other license, a credential or designation without authority. (Refer to the BCSP Unauthorized Use of Credentials Policy and Discipline Policy).

11. When dealing with any case involving a criminal offense or unethical behavior under this policy, the CEO, Executive Committee, or Judicial Commission may seek legal assistance from the BCSP legal counsel.

Guidelines for Evaluating Criminal Records

Among the factors BCSP may take into consideration when evaluating criminal convictions and unethical behavior:

- a. Nature and seriousness of the offense,
- b. Circumstances under which an offense occurred,
- c. How long ago the offense occurred,
- d. Age of the person when he or she committed the offense,
- e. Whether the offense was an isolated or repeated violation,
- f. Whether there are patterns of offenses,
- g. Social conditions which may have contributed to the offense,
- h. Any evidence of rehabilitation demonstrated by good conduct in prison or in the community or both,
- i. Completion of all conditions of court terms (i.e., parole, probation, restitution, treatment, registry (i.e. Sex Offenders) listing, etc.),
- j. Demonstration of remorse,
- k. Relationship or potential relationship of the offense to professional safety practice,
- l. Such other factors as BCSP may deem relevant.

Additional Guidelines for Evaluating Conduct

The BCSP's Code of Ethics provides general guidelines for evaluation of the behavior of applicants, candidates, certificants, and others holding status with BCSP.

Unethical conduct, as it pertains to this policy, also includes whether BCSP or other certifying or licensing organizations have determined that an applicant, candidate, certificant or person holding status with BCSP has used a license, a credential or other designation, experience or education without authority of the granting organization or whether the granting organization has taken disciplinary action against the individual.

Procedures for Applicants

1. The Application Form for a credential from BCSP shall include a full request disclosure of:
 - a) All felony convictions
 - b) Misdemeanors convictions within the past five (5) years
 - c) Any record of unethical behavior that an applicant may have
 - d) Information related to having a professional license or a certification denied, suspended or revoked for other than not meeting qualifications
2. The BCSP legal counsel shall review criminal conviction and unethical behavior information provided with an application and any information regarding actions taken by BCSP or other a credential or licensing organizations against the applicant and:

a) In the event the conviction(s) or unethical behavior(s) were within the 5 years preceding the application, the BCSP legal counsel will prepare a recommendation to the Executive Committee to allow the application to proceed, to deny the application or defer the ability of the applicant to pursue a credential. For denial or deferral of an application, the BCSP legal counsel may suggest conditions (including a delay in time) that must be met before an application from the individual will be considered.

As to those matters reviewed by the Executive Committee; the Executive Committee shall concur with, reject, or modify the recommendation of the BCSP legal counsel by majority vote. The CEO will provide the applicant with a written statement regarding the decision of the Executive Committee.

Should the Executive Committee not be able to reach a decision, then the Executive Committee may request from the CEO and/or BCSP legal counsel to obtain additional information that may aid in reaching a decision. In the event the Executive Committee is still unable to reach a decision after a review of the additional information, then the recommendation of the BCSP legal counsel shall control. The CEO will issue a written report to the applicant regarding the decision by the BCSP.

b) In the event the conviction(s) or unethical behavior(s) occurring more than 5 years preceding the date of the application, if they are voluntarily reported, the CEO will directly inform the applicant of the CEO's decision relating to the application in consultation with BCSP legal counsel. The decision will be to either allow the application to proceed or to deny the application or suspend the ability of the applicant to pursue a credential. For denial of an application, the CEO in consultation with BCSP legal counsel may also place conditions (including a delay in time) that must be met before an application from the individual will be considered.

3. All other aspects of the application for a credential will be handled through normal application processes used by the BCSP.

4. The CEO will notify the applicant that the criminal convictions and/or unethical behavior are being processed separately from the rest of the application using the policies and procedures established by BCSP. The CEO will provide a copy of the policies and procedures relating to an applicant whose criminal convictions and/or unethical behavior are under review in determining acceptance of the application.

5. The applicant will have the right to appeal the decision of the CEO and/or the Executive Committee in the case of matters handled pursuant to paragraph 2 above, within 60 days of the issuance of a written decision to the applicant (and in accordance with the Appeals Policy). The appeal must be submitted to the CEO in writing. The Judicial Commission will consider the appeal based upon the written documents reviewed by the CEO and/or the Executive Committee, and/or any additional documentation the applicant shall present.

The Judicial Commission will hear all appeals by conference call. The individual, alone and/or with a representative, will have the right to submit or present information to the Judicial Commission. The decision of the Judicial Commission is final.

The Judicial Commission shall concur with, reject, or modify the recommendation under appeal by majority vote of the commissioners assigned to the appeal. The CEO will provide the applicant with a written statement regarding the decision of the Judicial Commission within 30 days of the decision.

Procedures for Candidates and Certificants

1. Should BCSP learn of criminal convictions or unethical behavior of individuals who are candidates for a credential by or who hold a credential with BCSP, the information will be considered using these policies and procedures and in applicable cases the BCSP's Disciplinary Action Policy.
2. Someone who is a candidate for a credential or holds a credential from BCSP who is charged with committing a crime, that if convicted would be required to report the conviction to the CEO of BCSP of the charges. This includes candidates and certificants whose case has not yet received final disposition. Such candidates and certificants may be subject to a temporary suspension of eligibility or a credential pending investigation of the case by the CEO and/or the Executive Committee.
3. After a complete review of the facts in the case, the CEO in consultation with BCSP legal counsel must issue a written decision regarding how BCSP will handle the individual's case during litigation and/or incarceration.
4. If BCSP suspends the individual's eligibility or a credential, and the individual is cleared of any wrongdoing, BCSP will reinstate the eligibility or a credential and the individual's BCSP records will be cleared of the incident. If the individual is found guilty and/or subsequently incarcerated, the individual will be deemed to have voluntarily given up eligibility for a credential or the credential issued by BCSP.
5. If the CEO and/or the Executive Committee determine that a candidate or certificant engaged in activity that compromises the candidate's or certificant's character or that of BCSP, the candidate or certificant may be subject to revocation of eligibility or credential, even if not convicted.
6. The candidate or certificant shall have the same right to appeal as applicants whose eligibility has been denied based upon a criminal conviction and/or unethical behavior.

Procedures for Others Holding Status with BCSP

1. Should BCSP learn of criminal convictions or unethical behavior of individuals who hold status with BCSP other than as an applicant, candidate or certificant, the BCSP legal counsel shall review the information and prepare a recommendation for the BCSP Executive Committee for cases involving other than felonies. The recommendation will be (a) To allow the individual to retain the status held with BCSP or (b) To terminate or suspend the status until any conditions (including a possible time period) are met before the status or any rights and privileges associated with the status can be restored.
2. The CEO will notify the individual that the criminal convictions and/or unethical behavior are being processed in accordance with BCSP policies and procedures. The CEO will provide a copy of the policies and procedures relating to an individual holding status with BCSP whose criminal convictions and/or unethical behavior are under review.
3. The Executive Committee shall concur with or modify the recommendation of the BCSP legal counsel by majority vote. The CEO will notify the individual of the decision of the Executive Committee within 30 days of the decision.

4. Should the Executive Committee not be able to reach a decision, then the Executive Committee may request from the CEO or BCSP legal counsel to obtain additional information that may aid in reaching a decision. In the event the Executive Committee is still unable to reach a decision after a review of the additional information, then the recommendation of the BCSP legal counsel shall control.

5. The individual will have the right to appeal the decision of the Executive Committee to the Judicial Commission *within 60 days of the issuance of the written report*. The appeal must be submitted to the CEO in writing. The Judicial Commission will consider the appeal through a conference call, or a live hearing at the discretion of the Judicial Commission. The individual, alone and/or with a representative, will have the right to submit or present information to the Judicial Commission. The decision of the Judicial Commission will be final. The CEO will issue a written report to the individual regarding the Judicial Commission decision on the appeal within 30 days of the decision.

Record Retention and Management for Criminal Conviction Records

Information on criminal convictions of applicants, candidates, certificants and others holding status with BCSP shall be retained in strict confidence by BCSP. Once the applicant, candidate or certificant case has reached a final determination either to move forward through the candidate process or the individual's case has been denied, revoked or suspended all information pertaining regarding the criminal conviction will be retained in a special file under the Executive Department.. Cases in which no action has been taken detrimental to the individual's ability to proceed with an application or retain certification shall be retained for at least 2 years. Cases in which an individual's application has been denied or their status with BCSP has been negatively affected shall be retained for such period as the BCSP legal counsel may advise and in absence of such advice for a period of 5 years.

Case files that have met the retention time limit will be deleted from BCSPs filing system.

History

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