

(3) For purposes of a waiver, processing will be based on the severity of the specific offense(s) for which an applicant was adjudged or convicted. The severity of the offense(s) will be determined by the Uniform Guide List for Typical Offenses, exhibit 020802, or by the notes contained therein if the offense is not specifically listed by name. Once the request for a conduct waiver is at the proper decision level, factors such as the applicant's age at the time of the offense, the actual sentence imposed by the court, etc., will be considered.

b. Community Service. A sentence of a specific amount of labor to be performed for the benefit of the community at large. Community service is a form of fine or restitution, but is not a form of restraint. Applicants who have been directed by judicial authority to perform community service are ineligible for enlistment until such service has been completed and the appropriate waiver has been granted. No person will perform any type of Community Service at any Navy Recruiting Office or Recruiting Facility. No exceptions.

c. Conviction

(1) Determination of "guilty" by judge or jury, based either on the merits of a case or on defendant's plea of "guilty" or "nolo contendere":

(a) Regardless of whether sentence was then imposed, withheld, or suspended.

**Note:** As a general rule of thumb, any requirements imposed by judicial authorities will be viewed as a conviction for enlistment purposes. Pretrial intervention or diversionary programs will be considered a "conviction". Similarly, requirements imposed by law enforcement officials, (e.g., police, sheriffs, deputy sheriffs, or state troopers), will be viewed as a non-judicial administrative action. The key question is: "Was there involvement by judicial authorities?"

(2) Convictions or charges that have been reduced for expediency, as in "plea-bargaining", or plea to a reduced or lesser charge will be waived at the level appropriate for the adjudicated or convicted charge(s). Caution in these matters are to ensure no "recruiter impropriety or involvement" with judicial authorities prior to the court conviction phase.

d. Expungement. Some states have established procedures for the subsequent "expunging of the record", "dismissal of charges", or "pardon" upon evidence of rehabilitation of the offender. Such action has the legal effect of extinguishing the initial "conviction" or "adverse juvenile adjudication" so that under state law the applicant has no record of conviction or adverse juvenile adjudication. In spite of this action, the record must be revealed and a waiver of the applicant's disqualification(s) is required at the proper enlistment decision level.

e. Felony (also referred to as a "major misconduct" offense in this manual)

(1) A "felony" is defined as a conviction or adverse adjudication by civil authorities (foreign or domestic), or action taken which is tantamount to a finding of guilty of an offense for which the maximum penalty is confinement under state or local law exceeding one year. Refer to offenses listed in Exhibit 020802 for general felony offenses.

(2) An offense is classified a "felony" without regard to the offender's age when the offense was committed, or whether the offense was disposed of by juvenile or adult criminal proceedings. A felony charge that is adjudicated as a felony which is amended later to a lesser offense classification shall be considered a felony for enlistment waiver purposes. Any applicant arrested, charged, cited, or adjudicated with a felony offense regardless of final offense disposition or adjudication rendered by any court or civil authority must be referred to NAVCRUITCOM (00J) for a mandatory NAVCRUITCOM offense classification determination.

f. Nolo Contendere. "Nolo Contendere" is a plea made by a defendant in a criminal action equal to an admission of guilt. With this plea a defendant is subject to punishment, but leaves open the possibilities for denial of the alleged facts in other proceedings. Nolo Contendere pleas are considered adverse adjudications for enlistment or affiliation processing.

g. Probation. Probation is the suspension of a sentence of an individual convicted of an offense. The suspension of sentence will usually always require the individual to abstain from further unlawful activity during the period of probation and may or may not include other conditions imposed by the convening civil authority or court. The term unconditional or