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# Preface

**F**our years ago the Nonprofit Risk Management Center published the first edition of the *Staff Screening Tool Kit: Keeping the Bad Apples Out of Your Organization*. The response to this publication, which provided a practical approach to screening paid and volunteer staff, was extraordinary.

Since the *Tool Kit* was first published, changes have taken place that influence the screening process for paid and volunteer positions. Some of the changes are in the laws that regulate the screening process and govern access to records; other changes are in the technology now available to assist with the staff screening process. Our goal for this second edition is to increase the amount of up-to-date information offered in the book while preserving and strengthening the characteristics that made the first edition a valuable tool for you. Some of the information from the first edition has been reorganized to make it easier for you to find. For example, all of the legal issues have been consolidated in CHAPTER TWO, LEGAL ISSUES PERTAINING TO SCREENING, with updated case citations.

While we reviewed all chapters to ensure that the information they contain is current, we significantly expanded CHAPTER SEVEN, THE TITLE SEARCH: RECORD CHECKS, to address more adequately the increased focus on official agency records as tools for staff screening. For example, sex offender registries are an area that has greatly expanded since the first edition was published. For the most part, these specialized databases are easily accessible and may offer a valuable screening tool for organizations that serve vulnerable populations.

This edition also includes more information about using other records for staff screening. To make it easier to find the screening resources located in your state, APPENDIX A, STATE RESOURCES FOR SCREENING, is a state-by-state directory of agencies that maintain records you may find useful for screening.

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## CHAPTER ONE

# Introduction

**A**ny builder knows that in order to build a sturdy house, only quality materials should be used. The characteristics and suitability of bricks, wood, and other building components must be carefully chosen because a flaw in any one of them can jeopardize the integrity of the entire structure.

Think of yourself as a builder when putting together your paid and volunteer staff. You'll build a stronger organization by carefully choosing quality people.

During the past decade, community-serving organizations have encountered increasing pressure to thoroughly screen individuals who staff their programs. In some cases, the screening requirements and proposals are well-intentioned attempts to address complex problems with oversimplified and sometimes inappropriate solutions. The purpose of this *Tool Kit* is to provide a framework for deciding what kinds of screening you should do and which requirements you should support.

Every community-serving nonprofit has a legal duty to exercise reasonable care when confronted with a reasonably foreseeable risk or probability of injury associated with its activities. This duty may extend to taking steps to prevent staff from harming service recipients or from using their positions to inflict damage on the community, the organization, or themselves. When correctly used, screening of applicants is a risk management strategy that can reduce the risk of harm and assist you in fulfilling that duty.

The drive for more thorough screening is strongest for community-serving organizations and public agencies that serve *vulnerable* populations — children, the elderly, and individuals with disabilities. Even organizations that do not serve vulnerable populations may need to screen staff who handle funds, drive vehicles, or serve in other positions that pose particular risks. The *Tool Kit* suggests a process of staff screening based on the requirements of the position, the nature of the contact with service recipients, and the legal limits placed on the use of screening tools.

For purposes of the *Tool Kit*, staff screening consists of the steps you take before selecting an individual to serve in your organization. Think of these steps as tools for building a strong organization that will serve your community well. Some

### **ONLY THE BEGINNING**

*Although the focus of this publication is the screening process, screening alone cannot adequately control all staff-related risks. Screening is just the beginning of an overall risk management program that likely includes selection, placement, training, supervision, monitoring, and other measures designed to control wrongful or careless actions.*

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organizations and publications use the term “screening” much more broadly to include all types of measures for reducing staff-related risks. Contact the Nonprofit Risk Management Center for information on other risk management issues. The Center also has a website, <http://www.nonprofitrisk.org>, where you will find a listing of current publications along with information on our training programs and other services.

## **Screening Objectives**

The broad purpose of staff screening is to help you select the best applicants to fill positions in your organization. Consequently, minimizing risk is not the only concern of the screening process. The focal point of this book, however, is the use of staff screening as a risk management strategy — that is, the use of screening to *detect applicants who have identifiable characteristics that would increase risks if they were placed in inappropriate positions*. There are several corollaries to this objective:

- To identify individuals who would create an unacceptable risk if placed in situations that offer access to vulnerable populations, such as a convicted child molester assigned to unsupervised work with children.
- To prevent the placement of individuals who lack necessary skills, such as assigning a non-swimmer as a lifeguard.
- To rule out potentially dangerous individuals, such as someone who was fired from a previous position for bringing a weapon to work.
- To exclude individuals who would be considered too risky for a particular position, such as a bookkeeper who is on probation after being convicted of embezzlement.

Although screening cannot eliminate all of the “bad apples” — a term we use for individuals who present an unacceptable risk — proper screening can reduce the likelihood that you will inadvertently select those individuals to join your staff.

Staff screening must also take into account the mission of your nonprofit. The missions of some organizations may not allow the exclusion of individuals who have characteristics that appear to increase risks. Screening in these organizations at least identifies risks and provides a basis for managing them through strategies other than exclusion. The guidance in this *Tool Kit* can be used to help you successfully screen applicants, regardless of your organization’s mission.

Inherent in our approach is the identification of specific risks for which screening is to be performed. The screening process should go beyond the obvious and address three specific concerns:

- Does the applicant represent an unacceptable risk to the members of the community served by the nonprofit?
- Does the applicant represent an unacceptable risk to other staff members or to other resources of the organization?
- Does the specified position pose an unacceptable risk to the applicant?

### **“STAFF”**

*Whenever the term staff is used in this publication it refers to paid and volunteer positions. Otherwise, the terms paid staff, employee, or volunteer are used.*

Focusing on these issues reduces the potential for misusing the screening process as a way of excluding people who do not fit some standard mold but who are not dangerous. This *Tool Kit* suggests a screening process that addresses the identification of unacceptable risks without losing sight of the goal of selecting the best person for the position while respecting the rights of applicants.

### **Risks to Service Recipients**

Community-serving nonprofits exist to improve the quality of life in our society. Recruiting staff who pose an unacceptable risk of harm to the beneficiaries of an organization's services negates that intent. Every nonprofit should develop policies and procedures that minimize the risks staff pose for service recipients.

There are at least four kinds of risk that a staff member may pose to a nonprofit's clientele:

- **Physical harm** — including physical assault, sexual assault, child abuse, injuries caused by misuse of vehicles or other machines, and exercise of poor judgment leading to injury or death.
- **Emotional harm** — including sexual harassment; name calling; racial, gender, or religious discrimination; and denigration due to disabilities.
- **Theft of, or damage to, property** — including use of scams to take money from unsuspecting service recipients (often in conjunction with programs for the elderly), embezzlement and misuse of organizational funds, vehicle collisions, and other damages from recklessness or lack of respect for property.
- **Violations of privacy** — including misuse of confidential information, gossip, discussing clients with other service recipients or staff, and unauthorized distribution of mailing lists.

The concept of personal harm — either physical or emotional — that staff may inflict on a service recipient is fairly straightforward. You should not, however, discount the harm that staff could cause by other means, such as theft or misuse of confidential information.

### **Risks to the Organization**

Just as a staff member may pose a threat to service recipients, he or she may also pose a risk to the physical and emotional safety of other staff. Drug abuse and physical assaults pose serious threats to a nonprofit. Harassment and intimidation can cause enormous damage to other staff and the organization. There are also specific risks to organizational assets through embezzlement, insurance fraud, theft, and misappropriation of funds for which applicants may need to be screened.

The staff screening process may be the most significant risk management technique for preserving the intangible, but arguably most important, organizational asset — *goodwill*. Without goodwill and community support, a nonprofit may be unable to raise money, receive referrals, and fulfill its mission.

### **Risks to Applicants**

Some positions require a degree of physical ability for which applicants need to be screened. For example, in order to limit the risk of harm to the applicant,

volunteer leaders for a fifty-mile backpacking trip with inner-city youths need the physical stamina to be able to complete the trip. Obviously, persons selected for these positions should not be on doctors' orders to limit their exercise.

Staff assigned to crisis hotlines or counseling programs may be at risk of having their own emotional stability affected by the stress often present in such positions. A mentally unstable person or someone with unresolved victimization ordinarily should not be selected for placements of this nature. Another kind of risk may be posed by operating certain kinds of machinery — a person with poor hand-eye coordination might be a poor candidate for operating power tools and other potentially dangerous equipment.

The concerns mentioned in the previous paragraphs must be examined in the context of the Americans with Disabilities Act (ADA). This legislation requires employers to make reasonable accommodations to enable workers with disabilities to be employed. The ADA does not, however, require employers to hire people with disabilities when their disabilities would prevent them from performing tasks that are essential to the position.

### **Tailoring the Screening Process To Address Risk Factors**

There is no standard screening process applicable to all staff positions. The screening process used should be based on the requirements of the position and the specific risks associated with that position. The chart on the next page provides a rough assessment of the sensitivity of several kinds of staff positions and the relative importance of each screening element.

In the chart, the rows represent specific responsibilities that may be listed in a position description; the columns are screening tools as discussed in subsequent chapters of this *Tool Kit*. The larger the symbol in the box formed by the intersection of a row and column, the more important it is to use that particular tool for screening applicants for positions that include the responsibilities specified in the left-hand column. The chart is merely a general guide. Whether a tool is advisable depends on the details of the specific position.

#### **Basic Screening**

As the chart indicates, a basic screening process should begin with position descriptions and include completed applications, interviews, and reference checks. These four elements are the cornerstones for screening applicants for every position. The organization should develop its screening process based upon the nature of the position, the risks perceived to be associated with the position, and the costs associated with the screening procedure.

#### **Intermediate and Comprehensive Screening**

Some positions offer a somewhat higher level of risks for specific exposures — for example, working closely with groups of children, providing transportation, or handling cash. Screening for these positions may need to be expanded to include state-level criminal history record checks, Department of Motor Vehicles (DMV) checks, or use of national credit reporting information, as well as expanding the number and sources of references.