There’s No Mystery to Your History: Using Background Checks in the Screening Process

By Melanie Lockwood Herman

Executive Director

Resource Type: Articles

Topic: HR Risk and Employment Practices

Most nonprofits use some type of background check to vet potential employees and volunteers. However, the term “background check” is used to mean very different things by different people. Sometimes the term is used loosely to refer to a variety of screening tools, including:

- Criminal history background checks
- Sex offender registry checks
- Credit checks
- Education verification
- Prior employment verification
- Personal and professional reference checks
- Motor Vehicle Record checks

Other organizations use the term to specifically mean criminal history background checks conducted through external vendors.

In whatever way your organization chooses to use criminal history background checks, keep in mind that this process is only one tool in your screening toolkit. Many organizations fall prey to the misconception that criminal history background checks are the only effective way to prevent the hiring of an unsuitable employee. For most nonprofits, screening may be improved by conducting criminal history background checks for employee and volunteer roles. However, to obtain a more complete picture of a potential candidate’s suitability for a specific role, a combination of screening tools is an absolute necessity. For example, when hiring an employee to run an after-school program for elementary-aged children, you may wish to obtain general information through an application, find out why the applicant is interested in the position through a cover letter and interviews, and learn about the applicant’s past experience in similar roles through reference checks and prior employment verification.

Screen for Successful Placement

Screening for successful placement in key staff positions begins with thinking through what you need in that specific position. Whether it’s a role that has been on your org chart for a decade or a recently-created position

funded through a brand-new grant, remember to resist the urge to start recruiting before you take time to design a position-specific screening process.

Resolve to screen for successful placement by taking the following steps.

1. Analyze the open position to *assess the risks* associated with that position (risks to either the nonprofit itself, or to the clients or recipients of services). This step may reveal the importance of using specific screening tools such as a series of interviews with the applicant's prospective co-workers, or the need for personal reference checks due to the likelihood of attracting new professionals.
2. Identify the "musts" in candidate qualifications, education, experience and perspective. Many leaders are unrealistic about the skills and talents a new team member will bring. If you're hoping a single applicant will be a brilliant coder, social media whiz, creative genius, outstanding writer, and proven fundraising powerhouse, prepare to be disappointed. Stop wishing and dreaming and spend your time more productively defining the skills you absolutely need in the role.
3. *Take a closer look at past mistakes*. For example, is there a history of hiring someone overqualified or underqualified for this or a similar role at the organization? Do you know why the prior person vacated the position? Is the position description overselling the degree to which the position works directly with clients? Emphasizing opportunities for advancement when they are in fact limited because your nonprofit is small and its structure is flat?
4. *Choose the most appropriate screening tools* for each position, rather than doing the bare minimum or going overboard.
5. *Engage team members who will support the new hire's success*. A common mistake made by nonprofit leaders is to limit the number of people involved in vetting and selecting a new hire. Unless your new hire will be working in complete isolation from others, there is no better way to increase their chances of success than involving people they will be teaming with in the recruiting and vetting process. When your team works collaboratively to select the most qualified applicant they are invested in the new hire's success.

The Wide, Wonderful World of Screening

Changes in federal, state and local laws coupled with the growing awareness about hiring biases are changing the landscape for staff screening. Some current areas of importance in the world of background checking and screening include:

- **Rigorous screening of prospective volunteers**. In the past, employers were hesitant to do much, if any, screening for volunteers, with the thought that it would discourage potential volunteers from coming forward to provide services on behalf of an organization. However, there is a growing recognition that " Keep in mind that younger applicants or those who have recently returned to the workplace may have less recent job experience but valuable personal references. "volunteers, like employees, may pose the same or similar risks to the organization and its clients. As this understanding grows, nonprofit leaders are coming to realize that the *specific duties and responsibilities of the role*, and not whether the role is paid or volunteer, is what really matters when determining the appropriate screening tools.
- **Greater focus on reference checks**. Although most job applications request "three professional references," historically too few hiring managers took the time to actually 'check' references. Thankfully that is changing, as more employers recognize that reference checking is an important, if not the most important, screening tool. To increase the value of reference checking, make certain to:
    - *Qualify the reference* to determine whether the individual is able to provide you with relevant information. Make certain you understand how and when the reference knew the applicant before you start asking questions about the applicant's potential and talents.
    - *Don't ignore personal references*. Keep in mind that younger applicants or those who have recently returned to the workplace may have less recent job experience but valuable personal references. In addition, family members or friends of an applicant are generally fearless when it comes to telling the truth about an applicant, unlike many employers who believe that providing negative feedback creates an unmanageable exposure to defamation claims (which it doesn't if you provide only truthful and verifiable references!)
    - *Draft questions pertinent to the organization and the specific role* before you start calling an applicant's references
    - *Use the same or similar questions for all applicants*, with differences based on specific expertise and experiences listed on the application
    - Follow-up any reference response that you don't understand, or comments that could be

interpreted in more than one way. For example, when the reference-giver tells you that Mary "would make a good salesperson" make sure you ask 'why?' Unless you're filling a sales position, you need to know more before you can add this comment to a list of pluses or minuses for that particular applicant.

- **Improved options for conducting criminal history background checks.** There have never been more choices when it comes to conducting a background check. Private third-party providers of background checking services include companies such as HireRight, Intellicorp, HireEase, LexisNexis Risk Solutions, Trak-1 and specialty providers such as Protect My Ministry. Many state agencies now offer online access to their criminal records. For example, the Minnesota Bureau of Criminal Apprehension provides public access to public data on criminal convictions for 15 years following the completion of the sentence. The public, searchable, website includes: offense, court of conviction, date of the conviction and sentence information at https://cch.state.mn.us/. To search MN's database and determine whether your applicant is included, you need to know the applicant's first and last name and date of birth. A New York statewide criminal history record search is available from the NYS Office of Court Administration for a fee of $65. www.nycourts.gov/apps/chrs/. Requests can be submitted online. These are just two examples of the state agencies that offer public access to criminal history databases.
- **Broader understanding of the application of the Fair Credit Reporting Act (FCRA)**. In addition to providing less comprehensive criminal history background check results, cheap and speedy online searches may also be in violation of the FCRA if your nonprofit doesn't obtain written authorization to complete the search prior to conducting it. Although the Act has the term "credit" in its title, its applicability extends to any type of search done by a third-party consumer report company, including criminal history background checks. Thus, when conducting these checks ensure that you:
    - **Get written permission from the applicant**, and provide notification that the purpose of the check is to make a decision related to employment or volunteer status
    - **Provide a copy of the report and a Summary of Rights if adverse action will be taken** because of information that was contained in the report
    - **Provide an opportunity for the applicant to dispute the accuracy of the report** with the company that provided the information

  FCRA requirements extend to any use of third-party consumer reports, including those done on potential volunteers. In July 2011, the FCRA published a report with a footnote that indicated that volunteer screening is subject to the same requirements as employee screening under the FCRA.

- **"Ban the Box" movemen**t. As of April 2018, 31 states and 150 cities and counties around the country have adopted policies disallowing employers from requesting information about an applicant's criminal record on the initial application. The purpose of these laws is to provide candidates with an opportunity to be fairly assessed based on their qualifications for a specific job, rather than being immediately disqualified prior to an evaluation of their qualifications. In most of the states with current laws, the removal of criminal history questions from the application applies only to public sector employers. And according to the National Employment Law Project, "Eleven states—California, Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, and Washington—have also mandated the removal of conviction history questions from job applications for *private* employers." Keep in mind that these laws simply prevent initial questioning about criminal records, but don't prevent questioning later in the hiring process.

The good news about background checking and screening for potential employees and volunteers at your nonprofit is that today's nonprofit leaders have faster, cheaper options for identifying prior criminal offenses that would render an applicant ill-suited for a key paid or volunteer position. On the other hand, the faster turnaround and more affordable pricing does not necessarily reduce the risk associated with poorly planned screening practices.

Using background checking processes in your organization's screening process may be an essential piece of your toolkit—but remember that there are many other steps and tools that can help you make the most informed decisions about hiring for employee and volunteer positions at your nonprofit.

To learn more about this topic, order NRMC's book on screening, Staff Screening Notebook.

Melanie Lockwood Herman is Executive Director of the Nonprofit Risk Management Center. Melanie welcomes your feedback on this article and questions about NRMC resources at Melanie@nonprofitrisk.org.