

It's Never Over: Ongoing Screening of Volunteers and Paid Staff *

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Volunteering and volunteer work have changed dramatically in the last few years. So too have management practices in the not-for-profit sector as shrinking resources combined with increasing demands for service press administrators to search for new ways of doing business. One of the consequences of these changes has been an increase in the responsibilities assigned to volunteers and paid staff. These new responsibilities have increased the burden on organizations to manage all the paid and unpaid human resources they have mobilized.

As paid and unpaid staff members perform more sophisticated duties and as they work more directly with increasingly vulnerable populations, there is a concomitant increase in the dual burdens of responsibility and liability on the organizations that deploy them.

Screening as a Multi-task Effort

As a result, screening needs to be ever more thorough to protect clients from harm, to ensure the safest and most productive experience for volunteers and paid staff, and to fulfill the legal and ethical responsibilities that require each organization to do everything reasonable for the safety and well-being of all those to whom it owes a duty of care.

Until very recently, screening was viewed as a single task activity that gets done once and is thereafter essentially forgotten. Best practice now dictates that screening be a multi-task effort that balances the sometimes competing factors of duty of care and candidates' rights. There is a wide range of screening devices available and the challenge is to select the right constellation of devices, based upon the bona fide requirements of the position, that will generate reasonably sound and defensible screening and placement decisions.

As yet there are no definitive rules about which specific tools are appropriate and sufficient for each type of position. As a general guideline, the "sliding scale of screening" dictates that the nature and extent of the screening protocol will be defined by the type of work that will be performed. The more demanding the position and the greater the vulnerability of the client, the more intensive and thorough the screening needs to be.

Screening has become as much an activity of risk management as it is an activity of human resource management. While risk management is not, perhaps, the best reason to develop and implement carefully constructed screening protocol, it is indeed currently the most compelling.

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The Need for Ongoing Screening

While screening may begin with the application process it should not simply end when the candidate is hired. Because every screening mechanism has substantive limitations, even the most comprehensive

screening protocol may allow an inappropriate or dangerous candidate to slip through. Therefore, thorough initial screening is necessary but insufficient to control personnel-related risks.

Once a candidate has been screened, accepted, and placed, the organization continues to have a duty to ensure that he or she performs satisfactorily in his or her assigned position. Potentially harmful candidates can slip through even the most comprehensive screening protocols, and initially superb candidates can decline in capacity or develop ill intent at any point after their acceptance into a position. Simply put, it is nothing short of dangerous to assume that risks end when a candidate has been screened, even when the screening has been rigorous.

The need for ongoing screening places new burdens on nonprofit organizations. Many are still reeling from their only-recent realization that a) volunteers must be screened at all, and b) increasing legal and public standards are demanding that initial screening systems for paid and unpaid staff must be even more rigorous. Organizations that are still scrambling to develop their overall screening policies and initial screening protocols, may be overwhelmed by the spreading realization that ongoing screening mechanisms are necessary. Nonetheless, the accountable nonprofit organization of the new millennium must recognize that responsibility for candidate suitability does not end at the point of placement.

The concept of ongoing screening encompasses four distinct sub-types:

1. Meeting Performance Standards
2. Re-screening
3. Grandfathering
4. Up-Screening Internal Candidates

These four ongoing screening types are discussed below.

1. Meeting Performance Standards

This first form of ongoing screening has to do with ensuring that the volunteer's or employee's performance continues to meet agency standards throughout the course of his or her placement/employment with the organization. Mechanisms such as buddy systems, job duties restricted to on-site venues, close supervision, performance reviews, program evaluations (particularly those that elicit client input), unannounced spot checks, and discipline and dismissal policies and procedures are all, in effect, on-going screening mechanisms that allow the organization to be certain that the candidate continues to be the right person for the position.

An Elderly Volunteer with Declining Cognitive Capacity

I am reminded of a consultation request I received from a manager of volunteers many years ago. She had a long-standing, dedicated volunteer whose cognitive capacity was declining as she aged. The volunteer was in her '70's at the time and she had been volunteering in the same clinic position for over three decades. The manager of volunteers was looking for advice on how to intervene in a respectful and humane manner. Despite strong encouragement to act quickly, the manager delayed acting for reasons we might all understand, if not condone. The volunteer eventually took a patient to the wrong clinic where the patient waited in the hall for over two hours while his I.V. ran out and his health was jeopardized. Only the implementation of the hospital's lost-patient protocol located him. The volunteer had no recollection of where she'd left him. The patient survived and the volunteer was finally re-placed in a position for which she was better suited.

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2. Re-screening

The second type of ongoing screening mechanism is the re-screening variety where personnel are required to prove their continued suitability for the position that they are in. Organizations are advised to consider repeating initial screening mechanisms on a regularly scheduled basis, when justified by the nature and demands of the position and the risks that it entails.

Some positions quite clearly entail a mandatory licensing or minimum qualification element that should be periodically rechecked. For example, consider nurses who need to be periodically re-certified, drivers who are legally required to possess a current valid driver's licence, and certain trades which must be licensed, insured, and bonded. Most would agree that it is a good practice to assign volunteer driver positions only to those volunteers who have a valid driver's license plus the agency-required minimum automobile insurance coverage. It is further argued that the agency has an ongoing responsibility to re-screen that volunteer on a regularly scheduled basis to ensure that she or he still has those necessary qualifications every two, three, four, or five years into the placement. An organization might also decide to conduct periodic credit evaluations or criminal record checks for personnel that are assigned to positions involving the handling of large sums of money or close contact with particularly vulnerable persons.

Once an organization decides upon a re-screening strategy, it must then decide how often to conduct these screenings. The frequency of re-screening is currently a matter of great interest in the field. Managers of volunteers are looking with great anxiety for guidance about how "often" is "often enough." Unfortunately the entire notion of re-screening is too new to yet suggest a sector-wide pattern. There are some regulatory requirements or obvious benchmarks that can guide organizations. In some states, for example, funding and contractual agreements specify that driver's records and criminal records be rechecked at specified intervals. Organizations often gauge their rechecking calendar to the period required for state re-licensing. For the most part, however, the frequency of re-screening is proscribed by an organization's own risk tolerance zone. That is, there is no science involved beyond what risk level an organization is able to "live with."

3. Grandfathering

The third type of ongoing screening has to do with subjecting current paid or unpaid staff to higher or different screening mechanisms. Thus an individual who may have been working in a position for years may find themselves subject for the first time to new or more stringent screening techniques. As screening standards rise throughout the sector, organizations are being required to conduct increasingly thorough investigations of candidate suitability, even for positions that have not substantively changed. These situations give rise to questions about current staff, paid or unpaid, who were subjected to the lower screening standards that were in effect when they were accepted into their positions. Should those current staff members now be subjected to the new standards, or should the organization apply its increased screening standards only when hiring new applicants? There are convincing arguments on both sides of this issue.

One argument posits that since past performance is often deemed to be the most accurate predictor of future performance, the organization already possesses an excellent (if not the best) source of data regarding the suitability of its current employees. Additional screening mechanisms might be considered redundant. In addition, there is the potentially enormous expenditure of time and money required to re-screen all current employees in positions for which the screening protocol has increased. For some national organizations, the cost might amount to hundreds of thousands of dollars. Staff morale may be diminished among current staff members who feel personally affronted by the application of what seems like intrusive screening even after they have demonstrated years of organizational loyalty and exemplary service.

The other side of the argument assumes that the new screening standards have been raised to a level appropriate to current standards for the work in question. Thus the organization would have great

difficulty defending the application of lower standards not only to service recipients but also to current staff in the event of an accident, injury, or loss.

Again, in the absence of clear sector trends, the only reasonable approach is for every organization to find its own risk tolerance zone, based on its own risk assessment and a regular canvass of the practices of like organizations.

Participants in my screening workshops often ask if an employer (of paid or unpaid staff) has the legal right to increase the standards of screening in the presence of an existing (actual or implied) employment contract that specified lower standards. The short answer is "yes." If the new standard of screening is clearly and defensibly related to, and justified by, the requirements of the position (and not, for example, instituted by the employer merely to provide grounds to get rid of a current employee(s)), then the employer has the right to require current employees to meet the new screening standard.

If a current employee does not meet the newly established higher standard, the employer has the right to take an appropriate action up to and including dismissal. The employee, in turn, has the right to seek whatever remedy would have been available to him or her as a consequence of dismissal for other grounds (e.g., separation compensation). In the case of volunteers working, by definition, without remuneration, a monetary remedy is unavailable, although tact and discretion would be paramount to avoid a potential action for defamation.

Employers can also help to avoid litigation by making certain that all personnel within the same position are subjected to identical standards. Selective application of any protocol is discriminatory and exposes the organization to legal action. Collective agreements can complicate this process. If the setting is unionized, the collective agreement should be consulted on this and other related dismissal matters.

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Institution of Police Record Checks

Consider the following hypothetical scenario. Police record checks are part of the newly instituted screening protocol for all staff members who work directly with vulnerable clients. All new recruits are subjected to the updated protocol but the organization decides not to conduct a police records check on current staff. It turns out that a current staff person has a criminal history of abuse that would have been grounds for dismissal if the check had been run when he initially started with the program. Consider the liability and credibility ramifications for the organization if that staff person harms a client at some point after the program begins to institute police record checks for new volunteers and employees.

4. Up-Screening Internal Candidates

This fourth type of ongoing screening, which we call "up-screening," should be considered when an existing staff member applies for a new position that involves skills or duties different from those needed for his or her former position. Internal candidates applying for different positions may be required to complete screening protocols that are a repeat of those they went through to obtain their current positions, and/or additional tests that reflect the different demands of the new positions.

Whether or not to repeat screenings that the incumbent has already completed may depend, at least in part, on the amount of time that has passed since these original screenings were performed. The need to repeat screenings may rise with the level of responsibility that will be given to the candidate.

For example, if a current employee applies for a position of trust and it has been a considerable time since that employee was screened, then it may be wise to repeat the procedures. Thus, even if he or she

had already submitted to these procedures in the past, the volunteer may require an updated police check, a reference check (in this case family and/or character reference checks make most sense), a driver's record check (has the driving record remained acceptable since the last hiring?), and/or a qualifications check (is the licence to practice still in effect?).

The general principle that applies in all cases of up-screening is "equal treatment." Whether candidates are external to the organization, or already engaged in some other capacity in the organization, they all should be treated the same at every stage of the screening process. Consistency and equity are two key legal and ethical principles that should pervade all aspects of the screening protocol. They dictate that the same process be applied uniformly to all applicants. It is suggested that organizations make no exceptions, even for those candidates who are known well or who have given long-term service to the organization in another capacity. Hence, if the position for which the volunteer applies normally requires different or additional screening mechanisms than were originally required of the internal candidate, then he or she must be subjected to those screening mechanisms. Standards should never be lowered even in cases of individuals with a long history with the program.

Concluding Thoughts

Once narrowly conceptualised as a human resources management process, screening has become as much about risk management as it is about finding the right person to fill a staff or volunteer vacancy. Standards are ever-increasing and many organizations in the nonprofit sector are still in the process of upgrading initial screening policies and procedures. But initial screening is not sufficient. Organizations have an ongoing responsibility to ensure that the right people are in the right positions, and ongoing screening is a matter that is now beginning to demand equal attention from policy makers.

It has been suggested here that ongoing screening takes four distinct forms. Organizations are encouraged to consider their protocols in relation to each of these forms. The question of how thorough is "thorough enough" remains unanswered. The area of ongoing screening is still too new for us to identify clearly discernable standards upon which the volunteer community can rely.

Several times in this article, we have suggested that, in the absence of legislation or regulation, it is likely that the legal standard for screening and re-screening techniques will often be based on the generally followed practice among similar organizations. Only when we talk about these questions and share our own protocols can we obtain a sense of what the community benchmark might be for all. Remember also that as more agencies become alerted to the need for higher standards for screening and re-screening, the odds are that the "industry" standards will rise. It is a good idea then to keep checking in with colleagues in like organizations. "Keeping up with the Jones" is actually good advice when it comes to risk management standards.