

RISK MANAGEMENT

What is it and why is it important?

“The first step in the risk management process is to acknowledge the reality of risk. Denial is a common tactic that substitutes deliberate ignorance for thoughtful planning.”

-Charles Tremper

“Many people who work or volunteer for a nonprofit agency believe that nonprofits still operate under some form of charitable immunity. This and other misconceptions about nonprofit liability may jeopardize the success of nonprofits that fail to take appropriate steps to protect themselves and their stakeholders from harm.”

-eriskcenter.org

Publications

McCurley and Lynch, *Volunteer Management: Mobilizing all the Resources of the Community*.

Graff, *Beyond Police Checks: The Definitive Volunteer and Employee Screening Guidebook*.

*Both books may be borrowed from Delaware libraries.

Websites

www.eriskcenter.org

www.osha.gov/SLTC/etools/safetyhealth/mod4_tools_checkup.html

(this is an online safety workplace assessment)

In this section:

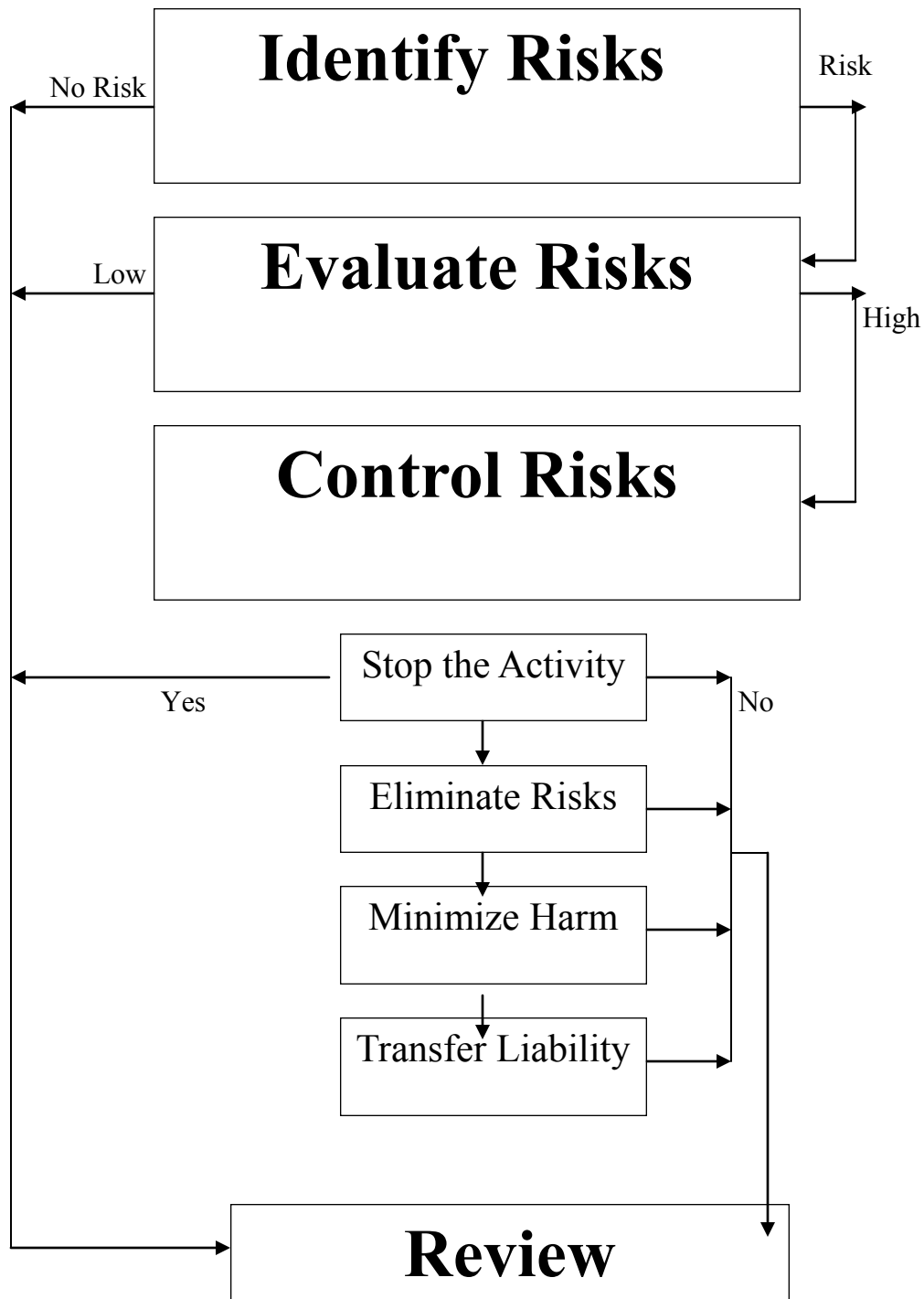
- Risk Management Model
- Risk Assessment
- Risk Management
- Volunteer Canada's Safe Steps Screening Program
- Instructions for a background check
- Checklist



DELAWARE HEALTH AND SOCIAL SERVICES
Division of State Service Centers State Office of Volunteerism
Governor's Commission on Community and Volunteer Service

Risk Management Model

Adapted from "Risk Management Techniques for Volunteer Programs." by Steve McCurley. Grapevine. 1993
(Sept/Oct) p.9-13



Does Liability for Negligent Hiring Apply to Volunteers?

By John C. Patterson

From Staff Screening Tool Kit, p.13-14

From :www.energizeinc.com

There is authority in the common law--the body of law derived from usage, custom, and tradition --supporting the argument that the concept of negligent hiring can be applied even when the wrongdoer is an unpaid staff person. "A person conducting an activity through servants or other agents is subject to liability for harm resulting from his conduct if he is negligent or reckless.. .in the employment of improper persons or instrumentalities in work involving risk of harm to others."

RESTATEMENT (SECOND) OF AGENCY, Section 213 (1958) jilt is negligence to permit a third person to use a thing or to engage in an activity which is under the control of the actor, if the actor knows or should know that such a person intends or is likely to use the thing or to conduct himself in the activity in such a manner as to create an unreasonable risk of harm to others."

RESTATEMENT (SECOND) OF TORTS, Section 308 (1965). As discussed previously, key considerations are:

- Foreseeability. Did the nonprofit know or should it have known that the staff member posed an unreasonable risk of harm?
- Control. Did the nonprofit have control over the activity in which the "actor" was engaged?

Risk Management Strategies for Legal Screening

- Always base screening processes on the potential risk posed by a position. Begin your screening process by considering the potential dangers inherent in the position. For example, a position that will have one-on-one contact with vulnerable service recipients or the general public poses greater risk to these populations than a clerical position with light typing duties and no public contact.
- When a position involves unsupervised contact with vulnerable service recipients, use a more rigorous screening process. The determination of whether a screening process will be considered reasonable will take into account the level of risk to service participants.
- Before screening for a particular position, identify the characteristics that will act as automatic dis qualifiers for the position. For example, determine that one or more moving violations during the past five years will disqualify an applicant for the position of van driver.

- Whenever a basic screening process raises red flags about an applicant, you should investigate the issue to determine whether it disqualifies the applicant.
- Do not disqualify applicants based on their beliefs. Conduct, not ideas, is an appropriate basis for exclusion.
- If appropriate, when a disqualifying characteristic is detected in an applicant for a volunteer position, consider the applicant for another position.
- Establish written screening guidelines and use written tools to substantiate your efforts, such as position descriptions, interview guides, hiring checklists, reference check worksheets, and other items as appropriate.
- Determine whether a license is required for each position, and confirm that every applicant has the required license before proceeding with additional steps in the screening process.
- Evaluate the sufficiency of your screening processes using the reasonableness standard. Is the process used to screen applicants for volunteer positions reasonable under the circumstances? Is the process used to screen applicants for paid positions reasonable under the circumstances?

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Excerpted from Staff Screening Tool Kit p. 13-14, by John C. Patterson.

Found in the Energize website library at: <http://www.energizeinc.com/art.html>

Volunteer Risk Management

Volunteer Risk Management is being aware of liability issues. When dealing with volunteers, managers need to look out for the liability of the volunteer, liability of the agency to the volunteer, and the liability of the agency because of the actions of the volunteer. Therefore, the manager has to make sure the patrons and volunteer is safe from harm.

The four steps to reducing risk when dealing with volunteers are:

1. identify risks for each volunteer position
2. Screen volunteers based on the positions risk
3. Train staff and volunteers
4. Review and update programs.

Identify the Risks: Have Volunteer Position Descriptions and Policies already in Place

The first step is to evaluate your own programs and procedures, and to identify the possible risks.

Ask key questions:

What can go wrong? What surprises could we encounter in each of our programs? What steps can we take to avoid such problems (more training, staff, etc.)? What will we do if something goes wrong? And how will we pay for it?

Even before you recruit volunteers you need to identify risks and write policies and procedures to guide the volunteer and reduce the likelihood of problems. Volunteer position descriptions are a great way to let the organization express the kind of qualities they are looking for, as well as giving the volunteer a chance to evaluate the job and organization.

The Joseph R. “Beau” Biden III Child Protection Act is the result of the work of the Delaware Background Checks Task Force, which was established by Executive Order 42. This legislation will consolidate into one chapter and section of the code the background checks that must be completed for individuals who seek to work or volunteer for a child-serving entity. The legislation will address inconsistencies as to what types of background checks those individuals who seek to work or volunteer for a child-serving entity must have and the types of criminal convictions and/or what level of entrance on the Child Protection Registry will prohibit an individual from working or volunteering with such an entity. Finally, this legislation includes individuals who seek to work with a private school or youth camp, who previous to this legislation, were not required to have background checks on staff or volunteers.

Link to bill updates:

: <http://legis.delaware.gov/LIS/LIS148.NSF/93487d394bc01014882569a4007a4cb7/0743fb73c85837d085257e5900723558?OpenDocument>

Instructions for Requesting a Criminal Background Check
Both state and federal criminal background checks are required of all applicants.

- Instate Applicants - Call **1 (800) 464-HELP (4357)** to schedule an appointment if using New Castle or Sussex Counties locations. No appointments are needed at the Kent County location.
- Out-of-state Applicants – You can be fingerprinted by your local police agency. All types of fingerprint cards are accepted. If your local police agency cannot provide a fingerprint card, call **(302) 739-2134** to request a fingerprint card. Send your *Authorization for Release of Information* form and fingerprint card to the Kent County – Primary Facility below.

- One location in each county:

New Castle County - Satellite Facility

State Police Troop Two
100 LaGrange Ave
Newark, De 19702
(Between Rts. 72 and 896 on Rt. 40)

By appointment only

Scheduling: 302-739-2528 (local)
1-800-464-4357 (toll free)

Kent County – Primary Facility

Delaware State Police Headquarters
1407 North DuPont Hwy – PO Box 430
Dover, DE 19903-0430

Walk-ins accepted

Customer Service: 302-739-2134

Kent County Hours of Operation

Monday: 9am – 7 pm
Tuesday – Friday: 9am – 3pm

Sussex County – Satellite Facility

Delaware State Police Troop Four
South DuPont Hwy & Shortley Rd.
Georgetown
(Across from DelDOT & the State Service Ctr.)

By appointment only

Scheduling: 302-739-2528

IMPORTANT: Take the completed AUTHORIZATION FOR RELEASE OF INFORMATION form to one of the offices listed above with the correct payment of \$69.00 to cover both the State and Federal criminal checks. Prices are subject to change, so contact the agency where you plan to submit your forms for current fees. Cash, money orders and credit cards other than American Express are accepted. *Personal checks are not accepted.*

☑ ***Allow four weeks for receipt of results.***

DO NOT SEND THE FORM OR FEE TO THE BOARD OF MEDICAL PRACTICE OFFICE.

Full Criminal Background Check Form may be found on: <http://www.dpr.delaware.gov/boards/medicalpractice/documents/CriminalHistoryRecordCheckAuthorizationForm.pdf>

CANNON BUILDING STATE OF DELAWARE TELEPHONE: (302) 744-4500
861 SILVER LAKE BLVD., SUITE 203 DEPARTMENT OF STATE FAX: (302) 739-2711
DOVER, DELAWARE 19904-2467
WEBSITE: WWW.DPR.DELAWARE.GOV
DIVISION OF PROFESSIONAL REGULATION

**DELAWARE BOARD OF MEDICAL PRACTICE
AUTHORIZATION FOR RELEASE OF INFORMATION**

CRIMINAL HISTORY RECORD CHECK

USE FOR APPLICANT PURPOSES

(PLEASE PRINT OR TYPE ALL INFORMATION IN BLACK INK)

REASON FOR REQUEST: **Delaware Board of Medical Practice - License Application**

LAST NAME FIRST NAME MI SUFFIX

ALL OTHER NAMES USED IN THE PAST:

1. _____
2. _____
3. _____
4. _____

MAIL THE RESULTS OF MY CRIMINAL HISTORY REQUEST TO:

Delaware Board of Medical Practice
861 Silver Lake Boulevard - Cannon Building
Suite 203
Dover, DE 19904 SLC - D420A

AUTHORIZATION TO RELEASE INFORMATION:

As an applicant, I authorize release of any and all information that you have concerning me, including **CRIMINAL HISTORY RECORD INFORMATION** and other information of a confidential or privileged nature. I hereby release you, your organization, the State of Delaware and others from any liability or damage which may result from furnishing this information:

SIGNATURE OF PERSON PRINTED:

DATE: _____

Telephone Number Home: _____ Work: _____

**USE OF CRIMINAL HISTORY RECORD INFORMATION IS RESTRICTED BY LAW
AND SHALL BE LIMITED TO
THE PURPOSE FOR WHICH IT WAS GIVEN. MISUSE CONSTITUTES A CRIMINAL
VIOLATION.**

Risk Management Notes

“Keeping Your Program Healthy, Wealthy, and Wise”

Notes from a session by Patricia Redmond
Voluntary Action Center of Prince William County
Risk Management Workshop
2002 SOV Volunteer Management Conference

- Identify the risk
 - What can go wrong?
 - How did it happen?
 - Why would it happen?
 - Evaluate and prioritize the risk
 - Decide where the risks are located
 - Public image: Be careful with whom you partner
 - Plan for the worst
 - Implement risk management techniques
 - Avoid or remove the risk if you can
 - Modifications-change the behavior
 - Share/ transfer the risk (i.e. insurance, mutual agreements, contracts)
 - Public Relations
 - Develop a plan
 - Who should speak on behalf of the agency?
 - If you make a mistake, fix it out of there
 - Monitor and review
 - Perform an annual review of policies and procedures
 - Build in risk management
 - **the greater potential for a risk= the more concentrated the efforts should be!
- Laying the foundation for policies and procedures
- Embrace the three C's
 - Policies and procedures
 - State and Federal Law
 - Steps to minimize the risk in a volunteer program
 - Written descriptions to reduce risk by:

Checklist of critical elements of position description

- Screening
 - Do for one...do for all
 - Keep in Mind:
 - Out of state records may not be available
 - Name searches may not pick up aliases
 - Charges may have been dropped regardless of guilt
 - Criminal records checks have a shelf life
- Releases Verify
 - Employment
 - Credit or financial history
 - Personal references
 - Criminal History

Let the applicant know you are serious about checking records– be prepared if applicant refuses to sign.
- Interview
 - Develop a standardized assessment tool
 - Prepare interview questions, have interviewee give examples
- Verify information
 - If it's important enough to ask for, it's important enough to verify.
 - What verification gives you:
 - Requiring references may discourage inappropriate candidates
 - Gather information from several sources affords a better picture of a volunteer
- Evaluation
 - Establish a standardized orientation
 - Make it mandatory!!!
- Training
 - Ensure everyone receives an orientation package
 - Position description
 - Risk Management Policy
 - Handbook/ manual
 - Other information
 - One training does not fit all!!!
 - Assess each position to determine what training is appropriate
 - New policy= new training

- Supervision
 - Solid supervision promotes:
 - Retention of competent volunteers
 - Development of suitable procedures
 - Proper tools and training
 - Maintaining communication
- Evaluation
 - Reinforce or change behavior
 - Develop a standard assessment tool and keep records
 - Give specific examples of documented behavior