



## Screening Disqualifiers: Disqualifying Criminal Offenses in the Screening Process



Are there some characteristics of a volunteer applicant that would automatically disqualify him or her from involvement in an SMP/SHIP program? Some things are obvious: conviction for violent crime, sex-related crime, crimes against dependent adults, financial fraud, particularly against dependent adults, and so on could be considered disqualifiers for most, if not all, SMP/SHIP roles. But what about theft of a minor item more than a decade ago? What about a prank in adolescence that resulted in a criminal record of a minor nature, followed by no further recorded criminal behavior through adulthood? Is a record of driving under the influence of alcohol (DUI) an automatic disqualifier for a role involving driving? What about two DUI offenses?

ACL's Volunteer Risk and Program Management (VRPM) policies for SMP and SHIPs do not prescribe a list of offenses that disqualify applicants for volunteer positions who have criminal records. Instead, the policies instruct each program to establish a procedure for determining which criminal violations render an applicant unsuitable for SMP/SHIP assignments. This determination allows the SMP/SHIP to decide its own ability and willingness to accept risk.

Automatic disqualifiers may include things other than a criminal history. For example, an inability to effectively communicate would be a disqualifier from the group presentations role. Strong reservations expressed by references about the trustworthiness or hidden agenda of a candidate would certainly be a serious red flag if not an outright disqualifier.

There are many factors to consider in the wide range of situations that will arise in the screening process. Some decisions will be obvious. Others will be less so, depending on a range of factors such as:

### **Group 1 (factors related to the offense)**

- Whether the crime is a misdemeanor or a felony
- The degree of the offense (first, second or third degree felony)
- The degree of participation in the offense
- The nature of the crime (assault, property crime, fraud, drug, etc.)
- Age and ability of the victim against whom the crime was committed

### **Group 2 (factors related to the applicant)**

- Extent and nature of the applicant's past criminal activity (quantity, variety)
- Whether there are multiple convictions that may indicate an ongoing pattern of behavior
- Circumstances surrounding the conviction
- Age of the applicant when the crime was committed

- Amount of time elapsed since the last criminal activity
- Whether any criminal actions are now pending
- Conduct and work activity of the applicant before and after the criminal activity
- Applicant's current standard of living versus when the crime was committed
  - For example, if the applicant's crime was shoplifting, were they financially unstable at the time of the crime? Are they financially stable now, in comparison?
    - These are questions you can ask the applicant. You aren't expected to request proof of income.
- Evidence of rehabilitation

### **Group 3 (factors related to the volunteer position)**

- Whether the offenses were disclosed on the consent form
- Degree of unsupervised contact available via the volunteer role
- Opportunity to place the volunteer in an alternate role
- Relationship between the crime and the proposed volunteer role
- Your ability or inability to corroborate a suspicion or allegation

It may not be possible or even advisable to write definitive policies on some of these "grayer" matters, but certain offenses, incapacities, and characteristics will definitely be serious enough to warrant rejection. Again, it is suggested that these questions be discussed with VHOs to ensure that there is a similar approach being taken across the volunteer program. As you create the procedure, we strongly urge you to look to state statutes, administrative rules, and agency hiring policies for guidance.

Occupational licensing and/or certification laws may be especially informative because licensing standards for some occupations, including nurses, certified nurse assistants, and clinical social workers, sometimes list offenses that automatically disqualify applicants. Some states, for example, prohibit individuals convicted of murder, aggravated sexual assault, elder abuse, and a few other serious crimes from applying for licenses that would enable them to work in nursing homes. Other states disqualify those whose criminal offenses are "substantially related" to the work they are to do. If you have questions or are uncertain about how to proceed, check with your agency's legal counsel.

To summarize the steps around disqualifiers:

- 1) Establish your list of automatic disqualifiers for each role.
- 2) Establish a process for deciding the case-by-case gray-area situations.
- 3) Talk to your VHOs and decide whether the SMP/SHIP or the VHO makes final determinations, particularly in the less-than-clear cut decisions. For high risk roles it is recommended that final decision be made by the SMP/SHIP.

For additional information, see the tip sheet about Interpreting Criminal Records Checks.