

LEGAL LUNCH AND LEARN WEBINAR SERIES

Do's and Don'ts of Background Checks

NHMA

NEW HAMPSHIRE MUNICIPAL ASSOCIATION

EST. 1941

The information presented in NHMA's training events and materials is accurate as of the date of the presentation. NHMA's training events do not constitute legal advice. For legal advice, city and town officials may contact Legal Services at legalinquiries@nhmunicipal.org or their own municipality's legal counsel. Please refer to [NHMA's Legal Services FAQ](#) for details about how our service works.

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NHMA's Legal Advisory Services

Open 8:30 a.m. - 4:30 p.m.

- Email: legalinquiries@nhmunicipal.org
- Phone: 603-224-7447

Provide general legal advice

- Not comprehensive legal review of documents
- Not drafting individualized ordinances or charters
- Not reviewing specific applications before local boards
- Not settle intra-municipal disputes

Goal: Response w/in 48 hours

legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

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RSA 41:9-b



- The governing body or town manager MAY require background checks for candidates for employment for specific positions.
- This is a policy decision, not a statutory requirement (except for certain recreation employees as required by RSA 170-E:53-a)
- What positions may be subject to background checks
 - Work with or around children
 - Elderly persons
 - Enter the homes of citizens
 - Collect or manage money
- Includes candidates for volunteer positions, full or part time employees



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Positions where a background check should be considered

- Recreation department personnel likely to work with children
- Library personnel
- Town Clerks Office, Tax Collectors Office, Finance Department, etc.
 - *this applies to employees of the office, not elected or appointed officials
- Building Inspector, Assessors office, Welfare Office (people who enter residences)
- Police department, fire department and ambulance services

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Youth Camps

- RSA 170-E:56
 - Requires any entity that operates a youth skill camp to maintain an appropriate policy regarding background checks for camp owners, employees and volunteers that may be left alone with children
- Certification of background checks shall be made to the department of health and human services
- Individuals may not have any convictions for:
 - (1) Causing or threatening direct physical injury to any individual; or
 - (2) Causing or threatening harm of any nature to any child or children

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How to perform a background check

- Several private companies that offer comprehensive background checks
- State Police criminal record check- DSSP-256 form
- Possibly consider federal check as well
- Should have well drafted signed waiver

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Handling Results

- RSA 170-E:56 specifically bars someone from holding a position if they have a criminal conviction for specific crimes
- Most of the time it is a judgment call
- Consider what information is obtained and how it relates to the work and duties required for the position
- Consider liability concerns if something happens

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National Recreation and Park Association Guidelines

- Both volunteers and paid employees must be subject to screening process
- Social Security Verification
 - Eliminate possibility of false names or information
- Address Trace
 - Help determine what jurisdictions you should look for criminal history
- State or County Criminal Record Check
- National Criminal History Data Base Search
- Sex Offender Registry

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Other Considerations

- Performing checks annually for repeat volunteers
- Who will pay for cost?
- Will the individual be given copies of their results?
- What level of detail will be provided to the municipality?
- Appeal or clarification process for denied candidate
- Written policy

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Questions?



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Thank you!



The New Hampshire Municipal Association is a non-profit, non-partisan association working to strengthen New Hampshire cities and towns and their ability to serve the public as a member-funded, member-governed and member-driven association since 1941. We serve as a resource for information, education and legal services. NHMA is a strong, clear voice advocating for New Hampshire municipal interests.

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