Documenting Reference Checks



In case of a lawsuit, or even just to protect yourself in case an employee you hire later proves unsatisfactory, you should document every step of your reference check in order to show that you acted reasonably in hiring the applicant based on the information that you had.

For employers of 15 or more, employment application and reference check records must be kept for at least one year, even for the applicants you don't hire.

In order to avoid questions regarding your hiring methods, it is a good idea to create the following documents as you perform a reference check:

- a list of all references checked
- the name of the person who actually contacted the references
- how you contacted the references, namely, by telephone or by letter
- notes on all telephone conversations made
- name and job title of every person you spoke with
- a copy of the return letter
- copies of actual records received, e.g., credit bureau checks, driving records, etc.
- the fact that you made every reasonable effort to contact the reference listed but could not do so
- the fact that you did contact the reference given but could not get sufficient information from the source.

Keep the records, once you have gone to the trouble of documenting your actions, as indicated below:

- So long as the employee works for your organization, include the reference checks as part of the hiring papers and keep these records in the employee's personnel file.
- Treat an ex-employee's reference records and reports as merely part of that ex-employee's personnel file. No one has time to go back and weed out the file. A common rule of thumb is to keep an ex-employee's personnel file for seven years.
- Do not throw out records of your reference checks on unsuccessful applicants. They are considered part of the employment records "having to do with hiring" that the Equal Employment Opportunity Commission requires you to keep for at least one year after the date of the employment decision

(if you have 15 or more employees).

- Once a discrimination charge has been brought or any court action has been pursued, keep the records until the matter has been resolved.
- Remove any especially sensitive records from the file. If the reference records include credit reports or criminal record reports, you may want to put them in a separate file with the employee’s medical records (which also by law must remain confidential). This would prevent supervisors from seeing the information when reviewing a personnel file.

If you take reference reports out of a personnel file, leave a note in the file indicating where they are.