Guidelines For Responding to Employment Verification and Reference Requests



Generally, employers have discretion whether to disclose information to third parties requesting an employment reference or verification about a current or former employee. In some cases, such as in connection with subpoenas or certain government requests an employer may be required to verify employment, income and provide other information about an employee's employment. However, for the most part, disclosing information about a current or former employee's employment in response to a request from a prospective employer, mortgage lender, etc., is usually governed by the employer's internal policies and past practice.

Regardless as to whether the employer has a formal policy or practice of providing information in response to reference or employment verification requests, employers should be careful when doing so. There is significant risk exposure for an employer who provides a negative reference for discriminatory reasons, in retaliation for that person complaining of an illegal activity, or if the employer gives a defamatory reference or discloses confidential information which could invite an invasion of privacy claim. Accordingly, when an employer receives a request for a reference or employment verification regarding a current or former employee there are some basic rules that the employer should follow.

First, you should ensure you are speaking to someone who has a right to ask for such information. Therefore, you should always request a telephone number and call them back. You can indicate to the caller that you need to review the current or former employee's personnel file so that you have time to reflect on what you will say. Second, you should check the employer's policy on what information should be provided. Some organizations state that only dates of employment, job title and salary will be disclosed. Finally, although not legally required, it is a best practice for the employer to obtain the current or former employee's consent prior to releasing neutral information being requested by a third-party.

Who Should Be Allowed to Respond to Employment Verification and Reference Requests?

It is a best practice to limit the number of individuals that are allowed to give references or respond to employment verification requests. Limiting the

authority to respond to reference requests helps to ensure that your company policy will be followed each time a reference is given. It also allows your managers and supervisors, who may not feel comfortable giving a reference or responding to such a request, a legitimate reason to pass the request along to the employer’s HR personnel or other designated person(s).

It is also recommended that each reference request that the employer receives is documented by recording the date and time of the request, to whom you spoke to and what information was given in response to the request.