

QUICK REFERENCE GUIDE

ANSWERS TO REFERENCE REQUESTS CONCERNING FORMER EMPLOYEES:

You may not refer to the quality of work or the conduct of a former employee unless the reference check has been specifically authorized. You must remain objective and not damage the former employee's reputation. You may be under electronic surveillance. A recording of your comments could be introduced as evidence in a legal proceeding.

WHAT YOU MAY DISCLOSE:

Information relevant to the employment offered.

Information required by the work certificate, namely:

- ✓ Nature of the work
- ✓ Duration of work
- ✓ Dates on which employment began and terminated
- ✓ Name and address of the employer

WHAT YOU MAY NOT DISCLOSE:

- ✓ Hearsay or personal impressions, which are not substantiated by concrete fact.
- ✓ Negative references in order to punish an employee who has been fired, reprimanded or who has tendered his resignation.
- ✓ Information on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap, unless these questions are justified by the aptitudes or qualities required by the employment sought.
- ✓ Conclusions of fact about a former employee while an investigation is underway.

You must also refrain from recommending whether or not a former employee should be hired.

RECOMMENDATIONS

- ✓ Request the former employee's written consent before giving references.
- ✓ Ensure that your managers are aware that only the human resources department is authorized to respond to reference requests.
- ✓ Ask about the type of employment sought to gauge the relevance of the questions asked.
- ✓ Think twice before giving a negative reference.

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REQUESTING REFERENCES AS A POTENTIAL EMPLOYER:

You must first obtain the consent of the candidate to be able to communicate with his/her former employers and ask for a reference.

WHAT YOU MAY ASK:

Information relevant to the employment offered.

The information found on the work certificate, namely:

- ✓ Nature of the work
- ✓ Duration of work
- ✓ Dates on which employment began and terminated
- ✓ Name and address of the employer

WHAT YOU MAY NOT ASK:

- ✓ Personal information that is not related to the employment offered.
- ✓ Information on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap, unless these questions are justified by the aptitudes or qualities required by the employment offered.

RECOMMENDATIONS

- ✓ Have your legal counsel verify the consent form and the question protocol for references.
- ✓ Have the candidate sign a consent form allowing you to communicate with the persons authorized to provide references.

FOR ALL OTHER QUESTIONS, CONSULT ONE OF OUR PROFESSIONALS IN PRIVACY AND INFORMATION PROTECTION

- ✓ Antoine Aylwin 514.397.5123
- ✓ Julie Cuddihy 514.397.7521
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This quick-reference guide does not constitute a legal opinion and readers should not act on the basis of these recommendations without first consulting a lawyer who will provide analysis and advice on a specific matter. Fasken Martineau DuMoulin LLP is a limited liability partnership and includes law corporations.

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