

Guidelines for Providing Employment References

Oregon law provides protection for an employer who responds to a prospective employer's request for reference information about a former employee, as long as the information is requested by the prospective employer, is provided in good faith, and avoids any disclosures about the former employee which are protected, such as race, color, religion, national origin, disability, sexual orientation, age, etc.

Employers are not required to respond to reference requests. However, most employers rely on information from past employers to make good hiring decisions and therefore it is appropriate and desirable for us to respond to such requests in a manner which helps other employers do that, as we would want them to do for us.

The following guidelines are provided to help reduce any legal risks involved in giving employment references for both current and former employees.

- A good test for the legality of a reference question is whether the question can be legally asked of the prospective employee. If not, the question is not appropriate for a reference seeker to ask or the reference provider to answer. An example of a question NOT legal to ask is *do you have any disabilities that would prevent you from performing this job?*
- Be cautious about providing references over the phone. Arrange to provide the information in a return call or in writing, if possible, to verify that the person who contacted you has a legitimate business interest.
- Provide an employment reference only if you have direct knowledge of an employee. This means that generally, only a supervisor or manager should provide reference information.
- The employment reference should be restricted to answering only the questions which are related to aspects of the employee's job performance about which you have specific knowledge. You should avoid giving negative information about an employee's job performance if you did not document it at the time the problem occurred and/or discuss it with the employee.
- If asked about the employee's attendance record, you may provide verifiable information; however do not go beyond commenting on the facts of any work absences or give reasons for the absences; never disclose any information regarding disabilities or medical conditions.
- Don't hesitate to contact Human Resources for assistance with providing employment references.