

Guidelines for Reference Checking

Reference checks are best handled by board members on the Leadership Transition Committee. Reference checks are an essential component of vetting candidates. However, there are precautions for all reference-checkers as well as reference-providers should take.

- **All applicants should sign a release.**
Every applicant should sign a written release consenting to reference-checks. This is generally required under the Fair Credit Reporting Act, but also acts as strong defense against tort (wrongful act) and defamation suits. This release should include language releasing the organization, former employers, and reference givers from any legal liability resulting from the fact checks.
- **Create a standardized reference check form.**
Develop a list of standard questions, and require its use for all checks. Be consistent. The form should cover the basics such as duration of employment and the relationship of the reference to the candidate, as well as open-ended questions about skills, qualifications, weaknesses, and work habits.
- **What NOT to ask?**
Equal Opportunity Employment applies to all stages of the hiring process, including reference-checks. Other applicable legislation includes the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act, the Uniform Guidelines on Employee Selection Procedures, and the Fair Credit Reporting Act.

You may not ask about marital status, age, disabilities, health-related issues, religion, ethnicity, childcare, transportation, worker compensation claims, or other personal characteristics. All questions must relate directly to the candidate's ability to perform the job effectively.

- **Document all responses.**
Use a standardized reference check form to document all responses, even if limited. An accurate written record helps protect against negligent hiring, defamation, and other legal claims. Keep a log of the applicants' names, employers, and dates of their reference checks. When they are no longer needed, your written notes with the references' comments should be destroyed.
- **Keep reference checks confidential.**
Only a restricted number of staff should be authorized to view applicant files, and your personal notes from reference-checking should never be shared. To protect the reference-giver, do not attribute the sources of specific quotes or comments. Note that candidates can request a copy of the reference report and any stored information in their files.

As of 2011, over 30 states have adopted "employee pre-screening immunity laws" for reference checks. While these laws vary from state to state, they intend to protect employers who give information, both good and bad, in good faith. However, any notes attributing the reference-giver's comments should be destroyed after hiring decisions are made.

- **What is negligent referral?**

Negligent referral is a legal charge covering a range of culpable reference-givers. It can include giving unfavorable references to former employees in retaliation for discrimination suits the former employee brought against the organization, as well as failure to report major transgressions on the part of the former employee. It may even be used by “whistleblowers” who publicize legal violations by their companies.

- **Be wary of “back-door reference checking.”**

While someone who knows the client well (but is not listed as a reference) may provide valuable information, respect the position you are putting the candidate in. The non-profit world is small, and notice that she/he is leaving their current position could put the candidate at risk.

- **Identify who will provide references at YOUR organization.**

The people at your organization authorized to give references should only be persons who are trained to do so. Reference-givers should be careful not to reveal information outside the candidate’s ability to perform their job. See the above section on “What NOT to ask?” to review what information is off-limits.

While reference checks do necessitate certain precautions, they can also be valuable tools to discover the compatibility of potential hires. Here are some tips for productive and insightful reference checks:

Tips for Successful Reference Checks:

- Verify degrees and certifications by contacting the registrar at the applicant’s degree-granting institutions.
- Have the applicant notify her/his references beforehand. Email the reference to set up a call time.
- Ask the applicant to supply documentation, such as job descriptions and performance evaluations, to help identify issues for reference inquiries.
- Think about what sorts of references would be valuable. In addition to supervisors, feedback from important constituents, board-members, peers and colleagues may also be helpful. If the candidate is applying for a management position, you may seek a reference from someone she/he managed.
- Note that some former employers may only be able to provide the most basic information: dates of employment, employee identification number, and disciplinary history. It’s best to have several reference options in order to obtain the desired information about an applicant.
- Consider reference-checking more than one final candidate. The reference check can be valuable in distinguishing between several strong applicants.

Scripting the Reference Call:

- Briefly share information about yourself, the organization, and the job the candidate has applied for.
- Don't look for confirmation of what you already know of the candidate. Is there more information that can illuminate their ability to contribute and succeed at your organization?
- Don't be afraid to ask probing and specific questions. For example: are there particular times the applicant exemplified a skill or quality necessary for the position?
- See the sample reference check form for more ideas.

Evaluating the Reference:

- Pay attention to not just *what* the reference says, but *how* they say it. Do they hesitate to answer your questions, or are their answers vague? The reference may be seeking a diplomatic way to express potentially sensitive issues.
- Also be sure not to take all reference comments at face value. Be aware of the context in which they are delivered.