Using Social Media For Hiring: Is It Worth The Risks?

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The rise in social media sites has provided employers with the opportunity to learn more about job applicants than ever before. It is an enticing notion to be able to take a "sneak peak" into an applicant's personal life. But employers must be wary. Using social media such as Facebook, Twitter, LinkedIn, MySpace and other social media websites to screen candidates may be as difficult as navigating through a minefield. While online research offers potential benefits such as easy, convenient and free information regarding a candidate, employers must also be aware of the concurrent risks associated with such research.

Social networking profiles often reveal information about a candidate's protected class – for example, a candidate's age, race, gender, sexual orientation, gender identity, disability, religious beliefs and military status. This protected information may appear in several different forms within a candidate's profile. Consider the following scenario: your company decides to perform a web search on each of the finalists for a new position. The company's human resources professional performs the search and finds a picture of one finalist in full costume leading a local gay rights parade. What does the human resources professional do with that particular information? If a candidate who is not hired for the position finds out that the company conducted the search and reviewed the candidate's personal online profile, the company may find itself having to show that it did not rely on improper information when deciding not to hire that particular candidate. When utilizing online resources to research a candidate, employers should review candidates based on their qualifications and not necessarily the information in an online profile.

Practically speaking, many times information found online is more fiction than fact. Moreover, even factual information can be misinterpreted when taken out of context. As a result, using online information creates the following question: Is the information accurate or relevant to the job opening or does it have any bearing on the candidate's ability to succeed in a given occupation?

In addition, employers should be aware that in certain circumstances, reviewing online profiles could lead to an invasion of privacy claim by the candidate. A fine line exists

between a candidate's right to informational privacy and an employer knowing as much as it can about the candidate. Many social media profiles are private and only accessible by "friends" of the candidate. Employers must be careful of the tactics they use to gain access to information on social networks. For example, employers should avoid using someone else's login information or falsifying information to gain access to a candidate's profile.

Employers must first decide whether it is worth the risk to use social media to screen candidates. Employers may want to consider the reasoning and purpose behind using social media in the hiring process. Employers who conduct online research as a part of the hiring process should work with legal counsel to develop and document an internal policy to govern the use of social networks to screen candidates. Such a policy should define the type or specific positions for which online research will be used to assess candidates. In addition, the written policy should create a standardized process for utilizing the online research including defining the point at which human resources may look to online resources. Also, employers may want to specify in the policy what information the employer is looking for through the online research. A written policy that is consistently followed may help mitigate the risks associated with such screening.

Finally, employers may want to consider asking candidates for a written consent to use social networking sites as a part of the screening process or at least provide notice to candidates that you will conduct a background check that may include a review of any publicly-available social media sites. Employers, however, should avoid snooping into an account that is blocked from public viewing.

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