

AP 7171 - Inquiries for Employee Employment References (Including Student Employees)

Supervisors are always encouraged to get a written release from any employee, current or former, before giving any reference. Supervisors with concerns about employment reference requests are encouraged to contact Human Resources for assistance.

If the supervisor is aware that an individual has filed, or threatened to file a discrimination charge or a lawsuit of any type against the college, or left under a separation agreement, then no information should be given. Contact the Human Resources director, in such a case, the Human Resources director will make the decision regarding whether the reference will be made or not.

The following procedures are provided to help reduce the legal risks involved in providing employment references for both current and former employees.

1. Be truthful. Don't make statements that are not based on credible evidence.
2. Be clear and unambiguous. Don't make misleading or incomplete statements.
3. Be objective. Don't use the employment reference to punish an individual.¹
4. Stick to the information that the inquiring employer requests. Don't volunteer information that is not requested, especially unfavorable information.
5. Beware of illegal questions, such as but not limited to, questions about an employee's race, religion, color, sex, marital status, national origin, ethnic origin, citizenship status, age, sexual orientation, gender identity, disability, pregnancy and related conditions, family relationship, veteran's status, tobacco usage (during non-working hours), whistle blowing, victim of domestic violence and genetic information. Don't be led by an illegal question into providing information that is illegal to disclose.
6. Remember that you don't have to answer all of the questions you are asked. You have the right to say, "I don't have information about that" or "I'd prefer not to comment on that."
7. Be cautious when questioned about the employee's attendance record. Don't disclose information about disabilities or illnesses in this or any other context or protected medical family leave.
8. Stick to job-related facts. Don't talk about the employee's private life.
9. Be certain the person requesting the information has a legitimate business interest.
10. Use care in providing references over the telephone. Arrange to provide the information in a return call, whenever possible. Before returning the call, contact Human Resources if you have any concerns.
11. Document who is requesting the information and for what purpose.
12. Document exactly what information is provided.

¹ ORS 659.805

The protections of Oregon statute **do not** apply if information:

1. Is volunteered without request by the prospective employer of the former employee;
2. Goes beyond discussion of a former employee's job performance;
3. Is known to be false or deliberately misleading;
4. Is disclosed with malicious intent;
5. Is disclosed in violation of the former employee's civil rights;²
6. Is provided for a current college employee.³

February 13, 2007

Adopted College Council

Revised College Council

February 9, 2011; February 26, 2015

Revised by College Executive Administration

²ORS 659.800–820

³On its face, the statute applies only to disclosures about a “former employee”