

To Google or Not To Google: That is the Question for Hiring Managers

It's a Brave New World for employers, who can now gather information about potential new hires via the Internet, through search engines like Google and Yahoo!, as well as social networking sites like MySpace and Facebook.

As more and more employers turn to their computers to vet potential candidates, it raises a variety of questions, including the ethics of this informal "background check."

Is it OK to use information posted online to form an impression about a potential new hire? Should you avoid hiring someone whose online profiles list their hobbies as "drinking as much as possible every night?" and "getting paid for doing absolutely no work?"

In today's high-tech society, it's easier – and more common – than ever to perform an Internet search on potential employees. Should hiring managers use this tool to secretly investigate people before extending a job offer? Are they doing "due diligence" by collecting as much information as possible using all the tools at their disposal?

"Employers are frustrated by the limited amount of information they can get through reference checks, and doing an online search seems like a quick and easy alternative," said Susannah Chance, Vice President of Human Resources for Leddy Group. "But there are definitely things to be concerned about when researching potential candidates online. First of all, not everything on the Internet is true."

"There's also a possibility that when you conduct a background check, you could find information about a different person with the same name as your potential hire," Chance continued. "I was working with an internal database the other day and found two men with the exact same name, both living in the same state. And that was in our company's internal database, so you can imagine how this could easily happen through a broad online search."

A survey by the Society for Human Resource Management (SHRM) found that nearly half of HR professionals conduct an online background check on potential candidates through search engines like Yahoo! and Google before extending an offer. About one in five of those HR professionals said they've disqualified a candidate because of what they discovered.

"Anything found through Internet searches is public information and employers have the right to look at it," said Karen Aframe, an attorney in Bernstein Shur's labor & employment practice.

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“But if you’re conducting online searches around job candidates, there are risks,” Aframe continued. “One of the biggest risks is if employers look at social networking sites, which reveal a candidate’s membership in a ‘protected classification,’ such as the candidate’s sex, age, religion, race, or disability, the employer must be careful not to use such information in making hiring decisions.”

Hiring managers must apply the same Equal Employment Opportunity and anti-discrimination policies when conducting Internet searches as they use when conducting interviews and reviewing applications. Consider a hiring manager who discovers “protected classification” information about a candidate, whom she does not ultimately hire. Even if the hiring decision was based on other legitimate, non-discriminatory criteria, the candidate could claim discrimination, relying on the information discovered on the Internet.

For instance, an employer might Google a candidate and find out that she has a young child with cerebral palsy. The employer can’t reject this candidate based on this information. And if the company decides not to hire her, she can file a legal claim saying that she has all of the necessary qualifications for the job, and the only reason they didn’t hire her was because they found out about her special-needs child. This claim might not be valid, and the employer could argue that its decision was based on other factors, such as finding another candidate with even more impressive qualifications, but a legal battle could still ensue.

In this new era of online information, it’s more important than ever for employers to have set policies and procedures in place and to be consistent in their hiring practices. Also, it’s critical to document how all hiring decisions were made, in case you’re ever questioned about why a particular candidate was not selected.

Suppose a hiring manager searched a social networking site and discovered that a candidate has beliefs that don’t align with the company’s corporate culture – such as being openly anti-Semitic. While it’s illegal to discriminate based on a person’s religious affiliation, it’s perfectly legal to pass on a candidate whose personal philosophies are in conflict with your company’s.

Of course, this debate is filled with gray areas. Perhaps you’ve conducted an Internet search on a potential new hire and discover that he was involved in something unsavory – but not criminal – 20 years ago, such as being expelled from school for an immature prank. Armed with that knowledge, would you still consider him for the job?

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Today, anyone can “blog,” or keep an online journal, and their “posts,” or journal entries, are available for anyone to read. What if a potential employee’s blog portrays your company (or his current employer) poorly? What if they proudly blog about violating company policy, such as engaging in a romantic relationship with a colleague, which is in direct violation of company policy?

If you interviewed a great candidate with impeccable references, but you found her blog spotlights her nightly bar-hopping adventures, displaying scantily clad photos of herself, would you still consider hiring her? What if the information posted on the blog was made by a disgruntled ex-boyfriend seeking revenge, and not by the potential candidate herself? Is it fair to take her out of consideration based solely on the blog you found?

“Internet searches are a quick, easy way to gain information about a potential new hire, and can be done without the candidate’s permission – and often without their knowledge. Keep in mind, however, that information on the Web isn’t regulated, controlled or always accurate,” Aframe said. “You’re more likely to receive reliable information by conducting a more formal background, credit and criminal check.”

Protect your company by implementing a policy where all potential employees or potential employees for certain positions will need to participate in background checks. Be clear about what this includes (for example, criminal checks, credit checks, etc.)

If you choose to vet your candidate through a more formal background check, you’ll need to comply with applicable notice and authorization laws. If a candidate refuses to provide you permission to conduct a background search, it’s perfectly legal to stop considering them for your company.

“Make sure any employment decision is based on a legitimate business, non-discriminatory reason, and also ensure that you’re processing information consistently across the board,” said Aframe. “Anyone could make an invasion of privacy claim – and while there are no reported cases about this issue in NH today, they’re sure to emerge in the future.”

Leddy Group, with offices in New Hampshire, Vermont and Maine, works with more than 300 clients. For information, visit www.LeddyGroup.com or call (603) 749-4810.