



## QUICK REFERENCE GUIDE

# Requesting references as a potential employer

You must first obtain the applicant's consent before you can communicate with former employers and ask for a reference.

## What you can ask

---

- Information relevant to the employment offered
- Information found on the work certificate, such as:
  - Nature of the work
  - Duration of the work
  - Dates on which employment began and terminated
  - Name and address of the employer
- Information previously provided by the applicant which you would like the former employer to confirm.

## What you cannot ask

---

Personal information unrelated to the employment offered

- Race
- Colour
- Sex
- Pregnancy
- Sexual orientation
- Civil status
- Age – except as provided by law
- Religion
- Political convictions
- Language
- Ethnic or national origin
- Handicap
- Use of means to palliate a handicap, unless these questions are justified by the aptitudes or qualities required

## Recommendations

---

### Verify the questions

Have your legal counsel verify the consent form and the questions pertaining to references.

### Applicant's signature

Have the applicant sign a consent form so that you can communicate with the individuals authorized to provide references.

## For any other question

Consult one of our professionals in information protection and privacy.



Antoine Aylwin  
Partner  
+1 514 397 5123  
aaylwin@fasken.com



Karl Delwaide  
Partner  
+1 514 397 7563  
kdelwaide@fasken.com



Karine Fournier  
Partner  
+1 514 397 5252  
kfournier@fasken.com

# Requesting references as a potential employer

You cannot discuss the quality of work or conduct of a former employee unless the reference check has been specifically authorized. You must remain objective and avoid damaging the former employee's reputation. You may be under electronic surveillance. A recording of your comments may be introduced as evidence in a legal proceeding.

## What you can disclose

---

- Information relevant to the employment offered
- Information found on the work certificate, such as:
  - Nature of the work
  - Duration of the work
  - Dates on which employment began and terminated
  - Name and address of the employer
- Information previously provided by the applicant which you would like the former employer to confirm.

## What you cannot disclose

---

Personal information unrelated to the employment offered

- Race
- Colour
- Sex
- Pregnancy
- Sexual orientation
- Civil status
- Age – except as provided by law
- Religion
- Political convictions
- Language
- Ethnic or national origin
- Handicap
- Use of means to palliate a handicap, unless these questions are justified by the aptitudes or qualities required by the employment offered
- Hearsay or personal impressions that are not substantiated by concrete facts
- Negative references in order to punish an employee who has been fired, reprimanded or who has resigned
- Conclusions of fact about a former employee while an investigation is underway
- **YOU MUST ALSO REFRAIN FROM RECOMMENDING WHETHER OR NOT A FORMER EMPLOYEE SHOULD BE HIRED.**

## Recommendations

---

- Ask for the former employee's written consent before giving references.
- Ensure that your managers are aware that only the human resources department is authorized to respond to requests for references.
- Find out about the type of employment sought so you can gauge the relevance of the questions asked.
- Think twice before giving negative references.