

# IDAHO BUSINESS REVIEW

January 30, 2014

Vol. 36 No. 15 • \$2.50

## Using social media in hiring isn't worth the risk

Good employees are the backbone of any strong company. Companies strive to hire employees who are professional, have good judgment, project a positive image and are otherwise aligned with the company's culture. In an attempt to hire the best employees, companies have historically used job applications, interviews, references and background checks to vet job applicants.

While these traditional tools give some insight into a job applicant, some employers are turning to social media -- including Facebook and Twitter -- to get a clearer picture of applicants. An applicant's social media profile may speak volumes about the applicant's judgment, discretion and communication abilities. Social media may also tip off an employer to misrepresentations in an applicant's résumé or raise other red flags.

Businesses should exercise caution, however, in using social media to vet job applicants to avoid claims of discriminatory hiring practices. Federal and Idaho statutes prohibit discriminatory hiring decisions based on protected classifications such as race, color, religion, gender, national origin, age, disability and military status.

If a company does not have information about an applicant's protected status, such as religion, marital status, national origin or disability in the first place, it cannot be accused of discriminating against the applicant based on those protected classifications. That is why employers should never ask questions about an applicant's race, age, religious beliefs, or other protected classifications during the interview process.

If an employer gains access to an applicant's social media postings, the employer is likely to be exposed to just that kind of information because many social media profiles contain references to an individual's relationships, religious beliefs and medical issues. An applicant who has been rejected after a social media

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search can easily claim that the hiring decision was motivated by his or her membership in a protected classification learned through the social media search. Even if that protected classification had no bearing on the company's hiring decision, the company will be put on the defensive and will have to justify its decision.

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However, despite warnings from employment lawyers, some companies come to the conclusion that public information obtainable through so-

cial media is just too valuable to ignore. If a company insists on using social media to vet applicants, it should take the following steps to minimize the risk of discrimination claims:

1. Be consistent. Develop policies for determining when social media screenings are appropriate and perform those screenings on a consistent basis.

2. Wait to review social media until after an applicant has been interviewed, when his or her membership in protected classifications is likely already known.

3. Any social media screening should be conducted by Human Resources or a trained individual who does not make hiring decisions. The individual conducting the social media screening should then provide only legitimate information unrelated to protected classifications to the decision-maker.

4. Any social media screening should be limited to "public" information. Many states (not including Idaho) prohibit employers from demanding social media passwords from applicants.

5. Adverse decisions should be documented based on social media postings so you can justify your decision in the event of a challenge.

To be clear, I recommend that employers not use social media to vet job applicants because I believe the potential risks outweigh the reward. However, if a company decides to review social media as part of its hiring process, the above tips will help reduce the risk of discrimination claims.

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