

Office of Personnel Management

Policy

Policy Title: Reference Inquires	Policy Number: 30.19
Citation: Arkansas Code Annotated § 11-3-204	Forms: None

Purpose

Prospective employers may request reference checks on prospective employees with written consent from the prospective employee. Arkansas law establishes the guidelines for what an employer may release on a former employee.

Providing References to Prospective Employers

The employee's signed and dated consent must be given before any information can be released on the employee's employment history. The consent must be on a separate form from the employment application form, or, if included in the employment application form, must be in bold letters and in larger typeface than the largest typeface in the text of the employment application form.

The consent form must state, at a minimum, language similar to the following:

"I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer)."

If an applicant is hired and remains with the new employer for longer than six months, the consent shall be valid for no longer than six months. If the applicant is hired and remains with the new employer for less than six months, the consent shall be valid for six months after the termination of employment.

The following information may be disclosed about a current or former employee's employment history to a prospective employer upon receipt of the written consent from the current or former employee.

1. Date and duration of employment;
2. Current pay rate and wage history;
3. Job description and duties;
4. The last written performance evaluation prepared prior to the date of request;
5. Attendance information;
6. Results of drug or alcohol tests administered within one (1) year prior to the request;
7. Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;
8. Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and
9. Whether the employee is eligible for rehire.

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A current or former employer may disclose information to a prospective employer in a format that is convenient to the current or former employer, including electronically.

The state agency or institution of higher education disclosing such information shall be presumed to be acting in good faith and shall be immune from civil liability for the disclosure or any consequences of such disclosure, unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed was false and the agency or institution had knowledge of its falsity or acted with malice or reckless disregard for the truth.

The state agency or institution of higher education will not have immunity when it can be shown that the employer or prospective employer discriminated or retaliated against an employee because the employee or prospective employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by public policy of this state.

A prospective employer is not required to request employment history on a prospective employee and a current or former employer is not required to disclose employment history to any prospective employer.

Revised July 22, 2015