

“MUCH A TWITTER...” - SOCIAL MEDIA AND EMPLOYMENT SCREENING

By Bobbi Butler

As recently as 10 years ago, screening applicants and verifying employment required HR to pick up the phone and make a series of calls to check prior employment information and references. As more formal screening processes have evolved, outsourced verification services and electronic information sources have become more common. A new wave of employment screenings is evolving using social media, with employers checking Facebook, Twitter, MySpace, and other social networking sites as part of their applicant screening process. While employers can view prospective employees in a more personal light, as can be expected when processes change, there is a mixture of positive and negative reaction to using social media for this purpose.

First, let's look at how employers view social media in general. In a recent survey of US companies with 100 or more employees by Robert Half Technology, over 50% of Chief Information Officers said their company policies do not allow employees to visit social networking sites for any reason while at work. The main reasons for these restrictions: concerns that employees will be distracted during work hours and the potential for employees to damage the company's reputation (not to mention their own).

The survey concludes that as uses for social networking sites become refined and companies figure out ways to measure ROI with social media, they expect more companies to allow these sites to be used for business purposes.

With some employers allowing and others prohibiting use of social networking sites in the corporate environment, using these sites to screen candidates becomes a business issue with broader ramifications. In a recent Wall Street Journal article (*Graduates Alter Recruiters' Job* by Andrea Coombs, May 28, 2008), the Adler Group, a company that trains corporate recruiters on hiring practices, says people are "actively browsing social media sites and spending time on social networks, and even if they don't know it, they're passively looking for jobs. The smartest companies are taking advantage of this and creating a social media presence." These potential job candidates may stumble across an interesting blog, Facebook page, or Twitter profile that mentions a great company and they may take the time to find more about the organization. Now the tables are turning and eventually it is expected that "every company will need to create a large enough online presence so the right people will stumble on them." So while companies are beginning to use the social networking sites to gain a different perspective on potential new hires, job-seekers are using the same sites to research prospective employers.

With growing employer responsibility for the actions of their employees, employers need to know as much about prospective employees as possible. It makes sense that this information gathering and screening process cast as wide a net as possible, including using social networking sites. A recent article from *Management & Careers (IT security gets personal* by A. Snell, January 2007, Page 34) states, "With nearly 50% of resumes [containing] factual errors, it is understandable why employers are erring to the side of caution." In addition, "employee theft and fraud cost US retail businesses more than \$50 billion annually [and] the Bureau of Labor Statistics estimates that 1.2 million to 2 million incidents of work place violence occur each year." According to Joseph Vater, a partner at the law firm of Meyer, Unkovic & Scott LLP, "negligent hiring lawsuits against companies whose employees commit a violent act have been on the rise. This has

increased the necessity for employers to perform background checks on job applicants, and many companies have turned to the internet to find all available information on their prospective employees.” He notes that prospective employees also have a right to informational privacy. This situation creates a fine line between the company ‘s knowing as much as it can about a prospective employee and crossing the line into unethical behavior by relying too heavily on information found on the internet for make hiring decisions.

Here is where using social networking sites for screening purposes becomes murky. How dependable is the information posted on the site? In many cases, information found online is more fiction than fact. Even factual information can be misinterpreted when taken out of context. Will the prospective employer be using inaccurate or irrelevant information to decide whether to extend a job offer? If this information can be used to make hiring decisions, will it limit an individual’s ability for private self-expression? Can a company be accused of acting unethically if it denies an applicant the opportunity to interview for a job based on social networking information that, whether correct or not, has little or no bearing on the ability to succeed at a given occupation?

FYIscreening.com, a website devoted to helping companies with employee screening processes, notes that “over the past few years, social networking websites such as MySpace, LinkedIn and Facebook have provided employers with an opportunity to look at potential employees in a different light. The beauty of social networks is they invite people to share their lives, thoughts and opinions...all in public. [They’ve] noticed social networks are blurring the line between “business” and “pleasure.” This can get tricky for employers. Federal and state laws prohibit employment discrimination based on age, race, color, religion, sex or disability. Employers need to be careful when using information from a social network in making a hiring decision.”

Although it appears from searches and articles on this subject that there are currently no outstanding lawsuits, there seems to be a consensus that it’s simply a matter of time until an employer is sued for using a social network to screen a candidate. So what should employers do? This technology is growing steadily and being used increasingly for business purposes. As you do with all new policies you put in place, you would be prudent to go back to basics, think through your corporate strategy, and document your policies for using social networking sites. Some suggestions for employers from the *FYI* site:

- With your legal counsel, develop and document your policies and procedures for using social networks to screen candidates.
- Ask job candidates for written consent allowing you to use social networking sites as part of your screening process. (Statutes already exist if a website is searched by a background screening firm on behalf of an employer to provide consent, and disclosure as required under the federal Fair Credit Reporting Act (FCRA). The *FYI* site suggests that the “safest approach is to perform a social network search after there is applicant consent and a job offer is made contingent upon completion of a satisfactory background check.”
- Be careful of the tactics you use as an employer to gain access to information on social networks (e.g., never use fake identities or engage in “pretexting”).

As one HR professional for a large company notes via blog on a social media site, "Social media is about transparency, honesty, and authenticity, among other things.

These are definitely cultural characteristics that some companies have and have not yet succeeded in infusing into their organizations. Tech tools are like donated organs – the culture will either adapt and "take" the organ, or reject it!" As of today, social media is a tool that can either fit or not fit into a company culture.

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