



## Social Media Job Search Considerations

### **Renee M. Jackson (1/11/10 in the National Law Journal):**

In making hiring decisions, employers can lawfully use information relating to an applicant's illegal drug use, poor work ethic, poor writing or communications skills, feelings about previous employers and racist or other discriminatory tendencies. **Employers may also lawfully consider an applicant's general poor judgment in maintenance of his or her public online persona.**

Employers, however, may face liability under federal, state and local law for using any information learned from social media about an applicant's protected class status — race, age, disability, religion, sexual orientation, etc. — in a hiring decision. It may be hard for the employer to prove in later litigation that it only viewed, but didn't actually use, the information obtained in a social medium when making its hiring decision.

Employers should consider whether the benefits of using social media to screen applicants outweigh the risks. If an employer wants to supplement traditional hiring practices with a social media search, the employer should consider the following approaches.

- Employers should screen applicants in a uniform manner by creating a list of the social media they will search for each applicant and the lawful information about each applicant desired from the social media search. If all applicants cannot be screened using the lawful criteria because an employer does not have the time, resources or inclination to do so, employers must be consistent, objective and nondiscriminatory in selecting subsets of applicants to screen.
- Employers should have a neutral party, such as an employee in a non decision-making role, conduct the social media search, filtering out any protected class information about the applicant and reporting only information that may lawfully be considered in making the hiring decision.
- Employers' representatives should not "friend" applicants in order to gain access to their nonpublic social networking profiles.
- Employers must be able to point to a legitimate, nondiscriminatory reason for the hiring decision, with documentation to support the decision.
- Employers that are considering making an employment decision based on information found in social media should consult with counsel prior to doing so.

## Social Media Job Search Resources

[http://jobsearch.about.com/od/onlinecareernetworking/Career\\_Social\\_Networking.htm](http://jobsearch.about.com/od/onlinecareernetworking/Career_Social_Networking.htm)

<http://mashable.com/2009/01/05/job-search-secrets/>

<http://jobsearch.about.com/od/networking/a/linkedin.htm>

<http://mashable.com/2009/04/08/social-media-recruitment/>

<http://www.time.com/time/business/article/0,8599,1903083,00.html>