

Terminated employee asked for reference? Choose your words carefully

Sometimes, employees who have been fired need to get reference letters from their former employers to facilitate landing a new job. How you handle those references is important.

If the employee had real performance issues that might put others at risk, you can't simply brush them off. You would be risking a lawsuit down the line if someone sued after being harmed. On the other hand, overstating the former employee's negative qualities may earn you a defamation lawsuit.

Before drafting a reference letter, contact your attorney, who can advise you on what to do.

Recent case: Dr. Carol Lindsay, who is black, was terminated early from her contract as a specialist obstetrician. Her supervisors didn't like her messy office or the fact that she had fallen far behind in reading patient tests. They found she was often late when patients went into labor and needed her services. She was also allegedly rude and uncooperative with staff and some patients.

Lindsay applied elsewhere, and her former supervisor sent a carefully worded letter that said Lindsay's knowledge was "adequate" but that a prospective employer should place her in a setting where "peers are available for mentoring." When she wasn't hired, she sued, alleging defamation.

Fortunately for her former employer, she couldn't show a connection with the letters and not being hired. (*Lindsay v. Children's Hospital*, No. 24114, Court of Appeals of Ohio, 2009)

Final note: Truth is a good defense to defamation. However, given the high cost of legal fees, it can be an expensive one.