



The Genetic Information Nondiscrimination Act

The Genetic Information Nondiscrimination Act “GINA” of 2008 protects employees from employment discrimination and denial of health insurance based on that employee’s genetic information. Title II of this Act applies to employees covered by the Congressional Accountability Act (CAA).

In recent years, science has discerned new ways to map, decode, and discover the human genome. This discovery has opened up a broader understanding of medicine and how genetics can create or affect medical conditions. These advances, however, could also give rise to the potential misuse of genetic information for the purpose of employment discrimination. Recent cases concerning genetic discrimination in the workplace show a compelling public interest to act in the area before more discrimination can take place.

GINA, as applied by the CAA, offers protections for employees, should any discrimination occur due to their genetic information, including an employing office’s knowledge of the employee’s family medical history. It also limits the employing office’s right to acquire genetic information about employees and places confidentiality requirements on any information that can be acquired. GINA will become effective on November 21, 2009.

WHO IS PROTECTED?

Current, former, and potential employees of employing offices of Congress:

- U.S. House of Representatives
- U.S. Senate
- Office of Congressional Accessibility Services
- U.S. Capitol Police
- Congressional Budget Office
- Office of the Architect of the Capitol
- Office of the Attending Physician

WHAT INFORMATION IS PROTECTED BY GINA?

- Genetic information and testing of an individual employee or an employee’s family member.

WHAT INFORMATION IS NOT PROTECTED BY GINA?

- Information that is publicly available, such as stories published in newspapers, magazines, and on the internet.
- Information that is inadvertently requested or required information unwittingly received through casual conversation.
- Information about the sex or age of an individual.

EMPLOYEE'S RIGHTS

- An employee's genetic information cannot be the basis of any hiring, discharge, payment, promotion, or any other employment decisions.
- An employee's genetic information cannot be used to segregate, or classify in a way that could deprive an employee of employment opportunities.
- An employee must have equal access to apprenticeships and training programs without discrimination or segregation on account of an employee's genetic information.
- Employees have the right to bring complaints about violations of GINA without fear of reprisal.



EMPLOYING OFFICE'S RESPONSIBILITIES

An employing office may not request, require, or purchase genetic information from an employee, except:

- Health or genetic services can be provided by the employer as part of a wellness program, but only with the employee's prior written knowledge;
- Certifications of family medical history and ailments are allowed if an employee requests leave under the Family and Medical Leave Act of 1993;
- An employing office is allowed to participate in genetic monitoring of the biological effects of toxic substances in the workplace, but only with the employee's prior written knowledge and the employing office's compliance with federal standards for monitoring;
- An employing office which conducts DNA analysis for forensic purposes can request or require limited genetic information from employees for the sole purpose of DNA identification markers for quality control to detect sample contamination; and
- Any genetic information an employing office does maintain under one of the exceptions above must be treated with the same confidentiality as other medical information on an employee.