

JAN

Job Accommodation Network

Practical Solutions • Workplace Success

Accommodation and Compliance Series

Accommodation and Compliance Series: Genetic Information Nondiscrimination Act of 2008 (GINA)

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Introduction

Genetic Information Nondiscrimination Act of 2008 (GINA) includes two titles. Title I, which amends portions of the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code, addresses the use of genetic information in health insurance. Title II prohibits the use of genetic information in employment, prohibits the intentional acquisition of genetic information about applicants and employees, and imposes strict confidentiality requirements. GINA required the EEOC) to issue regulations implementing Title II of the Act.

Situations and Solutions:

A JAN caller asked where to find an EEO poster that includes information about GINA.

JAN referred the caller to the EEOC's website.

An employee contacted JAN for information about how to file a complaint under GINA.

JAN referred the employee to the Equal Employment Opportunity Commission (EEOC).

An employer contacted JAN looking for information about GINA as it relates to wellness programs.

JAN referred the employer to EEOC's Final Rule on Employer Wellness Programs and the Genetic Information Nondiscrimination Act. This document informed the employer about GINA and a "reasonable designed" program, including permitted inducements.

After the Equal Employment Opportunity Commission (EEOC) published GINA regulations, JAN updated its publications to reference GINA.

Of particular interest to JAN users is JAN's document titled Medical Inquiry in Response to an Accommodation Request (found on JAN's A to Z: Medical Exams and Inquiries). The publication now includes language from EEOC: "The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

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