



November 20, 2009

This is Utah SHRM Legal-mail no. 2009-22 prepared for Salt Lake SHRM, the Human Resources Association of Central Utah (HRACU), the Northern Utah Human Resources Association (NUHRA), the Color Country Human Resources Association (CCHRA), the Bridgerland Society for Human Resource Management and Utah at-large members of the national Society for Human Resource Management (SHRM). This update is best viewed in an HTML format. Please reply with your name and "UNSUBSCRIBE" in the subject field if you no longer wish to receive this message.

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GINA! By now, no doubt, you all are familiar with GINA, the Genetic Information Nondiscrimination Act of 2008, which adds genetic information to the list of protected federal classes. As with race, sex, religion, age, etc., employers must now ensure that they do not discriminate on the basis of genetic information. The Equal Employment Opportunity Commission (EEOC) takes on full enforcement powers for GINA this week. The EEOC has issued draft regulations interpreting GINA and it will issue final regulations soon. Make sure your policies, procedures, training programs, handbooks, etc. are all updated to ensure your compliance with this new employment law.

HERE IS THE EEOC'S RECENT PRESS RELEASE ON GINA:

WASHINGTON -- In the first legislative expansion of its jurisdiction since passage of the Americans with Disabilities Act (ADA) in 1990, the U.S. Equal Employment Opportunity Commission (EEOC) on Saturday [11/21/09] will assume responsibility for enforcing Title II of the Genetic Information Nondiscrimination Act (GINA).

GINA, signed into law in May 2008, prohibits discrimination by health insurers and employers based on individuals' genetic information. Genetic information includes the results of genetic tests to determine whether someone is at increased risk of acquiring a condition (such as some forms of breast cancer) in the future, as well as an individual's family medical history."

GINA affirms the principle central to all employment discrimination laws – that all people have the right to be judged according to their ability to do a job, not on stereotypical assumptions," said Acting EEOC Chair Stuart J. Ishimaru. "No one should be denied a job or the right to be treated fairly in the workplace based on fears that he or she may

develop some condition in the future.”

Specifically, the law prohibits the use of genetic information in making employment decisions, restricts the acquisition of genetic information by employers and others, imposes strict confidentiality requirements, and prohibits retaliation against individuals who oppose actions made unlawful by GINA or who participate in proceedings to vindicate rights under the law or aid others in doing so. The same remedies, including compensatory and punitive damages, are available under Title II of GINA as are available under Title VII of the Civil Rights Act and the ADA.

Acting Vice Chair Christine Griffin said, “Title II of GINA is an ideal complement to the ADA Amendments Act. With both laws now effective, American workers are protected if they experience discrimination because of their disability or because of impairments they may develop.”

The EEOC is charged with issuing regulations implementing Title II of GINA. On March 2, 2009, it published a Notice of Proposed Rulemaking to implement Title II with proposed regulations and received over 40 public comments in response. The final regulations implementing Title II are currently under review by the Office of Management and Budget and will be issued as soon as the review process is concluded.

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.

NEW EEOC POSTER INCLUDES GINA: EEOC has updated the anti-discrimination poster employers are required to post in their workplaces. Here is the language added to the new poster: “Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers’ acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.” The new poster is now available online at: http://archive.eeoc.gov/self_print_poster.pdf Get it and post it.

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