

Nondisclosure of GINA Protected Information

The Genetic Information and Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting, requiring, or purchasing genetic information of employees or their family members, except as specifically allowed by this law. GINA has specific exceptions for requests under the Family and Medical Leave Act and the Rehabilitation Act, as explained below. To comply with GINA, we are asking that you not provide any genetic information when responding to this request for medical information, unless the information is allowable as explained below.

“Genetic information”, as defined by GINA, includes information concerning the manifestation of disease/disorder in family members (“family medical history”), information about 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.

Family and Medical Leave Act (FMLA)

The general prohibition against requesting or requiring genetic information does not apply where an employer requests medical information of an employee who invokes the FMLA to attend to the employee’s own serious health condition or where an employee complies with the employer’s return to work certification requirements. See 29 CFR 1635.8(b)(1)(i)(D)(2). An employer does not violate GINA by asking an employee seeking FMLA leave to care for a seriously ill family member to provide family medical history to comply with the certification provisions of the FMLA. See 29 CFR 1635.8(b)(3).

Further, GINA permits disclosure of relevant genetic information consistent with the requirements of the FMLA to persons with a need to know the information because of responsibilities relating to the handling of FMLA requests. See 29 CFR 1635.9(b)(5).

Rehabilitation Act

The general prohibition against requesting or requiring genetic information does not apply where an employer requests documentation to support a request for reasonable accommodation as long as the request for documentation is lawful. Such a request is lawful only where the disability and/or the need for accommodation is not obvious; the documentation required contains no more information than what is sufficient to establish that an individual has a disability and needs reasonable accommodation; and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation. See 29 CFR 1635.8(b)(1)(i)(D)(1); see also 29 CFR 1635.8(b)(1)(i)(B).