

November 2009

LEGAL ALERT: Employers Must Post in the Workplace New EEOC Posters Including Information About Genetic Information Nondiscrimination Act

The Genetic Information Nondiscrimination Act of 2008 (“GINA”) became effective on November 21, 2009. This federal statute prohibits employers from discriminating against employees or job applicants because of genetic information.

More specifically, GINA’s Title II protects employees and applicants 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 not only information about an individual’s genetic test and the genetic tests of an individual’s family members, but also information about any diseases, disorders, or conditions that someone’s family member has. Family medical history is included because it is often used to determine whether someone is at increased risk of getting a certain disease or condition in the future. GINA permits disclosure of family medical history as part of an employer “wellness program” as long as certain precautions, including nondisclosure of individually identifiable health information to the employer.

What Does My Organization Have To Do?

The law requires employers with 15 or more employees to post notices (“posters”) in the workplace describing federal laws that prohibit job discrimination based on race, color, sex, national origin, religion, age, equal pay, disability and genetic information. Due to the new GINA law, therefore, these **employers must either:**

- (i) replace the “EEO is the Law” poster they currently have hanging in the workplace with [this new one](#) (which includes additional language about genetic testing); or
- (ii) leave the “EEO is the Law” poster they currently have hanging in the workplace in place, but hang [this new supplementary one](#) alongside it (the supplementary one covers the new language about genetic testing).

The new/revised EEOC posters should be hung **by November 21, 2009**. The poster will also be [available in Arabic, Chinese and Spanish](#).

Employers should also **update their handbook policies** to reflect these changes to the federal law (see the text of Title II to the [Genetic Information Nondiscrimination Act of 2008](#) for more details).

As a reminder, a similar state law addressing genetic discrimination is already in effect in New York, and applies to New York state employers with four or more employees.

WHERE Can I Find More Information?

- The EEOC page where you can print or order the new “EEO is the Law” poster (both the “replacement” poster and the “supplement” poster): <http://www1.eeoc.gov/employers/poster.cfm>
- Information about whether your business/organization falls under the jurisdiction of the EEOC: <http://www.eeoc.gov/employers/coverage.cfm>
- Text of the Genetic Information Nondiscrimination Act of 2008 statute (Title II is the relevant part): <http://www.eeoc.gov/laws/statutes/gina.cfm>

This alert is meant to provide general information only and not legal advice. For further information, contact Judith Moldover at Lawyers Alliance for New York at (212) 219-1800 ext. 250 or visit our website at www.lawyersalliance.org for further information.

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