SECOND READING BY BOARD

po3122.02

Special Update - Nondiscrimination - July 2026 Rescind NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE

Rescind Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination

~~3122.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE~~

~~The Board prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The Board also does not limit, segregate, or classify applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of the person as an employee, based on genetic information. Harassment of a person because of genetic information also is prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy is prohibited.~~

~~The identity of the Compliance Officer (see Policy 3122 - Nondiscrimination and Equal Employment Opportunity) shall be posted throughout the District and published in any District statement regarding the prohibition of discrimination on the basis of genetic information in all aspects of employment, in any staff handbooks, and in general information publications of the District as required by Federal and State law and on the District website.~~

~~In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq., and 29 C.F.R. Part 1635 ("GINA"), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA, applicants and employees are directed not to provide any genetic information, including the individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be provided as part of the certification process for FMLA leave, or when an employee is asking for leave to care for an immediate family member with a serious health condition. Applicants for employment are directed not to provide any genetic information, including the individual's family medical history, in response to requests for medical information as part of the District's application for employment process. Employees and applicants for employment shall not be penalized for providing~~

genetic information in good faith in response to a request from a Board employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Board.

[ ] The Board recognizes that genetic information may be acquired through commercially and publicly available media including newspapers, books, magazines, periodicals, television shows or the Internet. The Board prohibits its employees and agents including commercial background investigation agents from searching these sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall be redacted immediately and not shared beyond the point of first receipt.

As used in this policy, "genetic information" means information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (i.e., family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the Board's employees or agents legally and/or inadvertently receive genetic information about an employee or applicant, it shall be treated as a confidential medical record in accordance with law.

The Compliance Officer (See Policy 3122 - Nondiscrimination and Equal Employment Opportunity) is responsible for overseeing the Board's compliance with this policy and GINA and proposing revisions and additions to this policy as necessary to ensure the Board's compliance with GINA. This person shall be responsible for working with the Board's legal counsel to fully implement the requirements of GINA in all activities of the School District. The Compliance Officer shall also verify that proper notice of nondiscrimination for Title II of GINA is provided to staff members, and that all requests for health-related information (e.g., to support an employee's request for reasonable accommodation under the ADA or a request for sick leave) are accompanied by a written

warning that directs the employee or health care provider not to collect or provide genetic information. The warning shall read as follows:

> **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**
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> The Genetic Information Nondiscrimination Act of 2008 or "GINA" prohibits employers and other entities covered by the law, including the Board, from requesting or requiring genetic information of an employee or applicant or family member of an employee or applicant, except as specifically allowed by law. To comply with GINA, do not provide any genetic information when responding to this request for medical information (unless the request pertains to a request for FMLA leave for purposes of caring for an immediate family member with a serious health condition). "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or an individual's family member sought or received genetic services or participated in clinical research that includes 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. Questions concerning compliance with the requirements of GINA may be directed to the Compliance Officer at _____ **[phone] .**

[ ] The Board offers health services, **( )** including a wellness program. Participation in the services/program is voluntary. Genetic information (such as family medical history) may be obtained as part of an individual's participation in the service/program. If that occurs, individual genetic information may be provided to the individual receiving the services and to his/her health services providers, but only genetic information in aggregate form will be provided to the Board and no applicant or employee shall be identified or identifiable from the reported information.

The grievance procedure for complaints of discrimination in Policy 3122 applies to complaints of discrimination, including harassment, or retaliation prohibited by GINA and may be utilized if a District employee alleges discrimination or harassment on the basis of genetic information or retaliation for identifying, objecting to, or filing a complaint concerning a violation of GINA or this policy.

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42 U.S.C. 2000ff et seq.
Title II, The Genetic Information Nondiscrimination Act of 2008
29 C.F.R. Part 1635