

Genetic Information Discrimination

The Genetic Information Nondiscrimination Act of 2008, which prohibits genetic discrimination, takes effect on November 21, 2009.

It is illegal to discriminate against employees or applicants because 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. The law includes family medical history because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

It is also against the law to retaliate against (i.e., take a negative job action or threaten) a person because the person complained about genetic discrimination, filed a charge of discrimination, or participated in an employment discrimination inquiry, investigation or lawsuit.

EEOC enforces the part of the Genetic Information Nondiscrimination Act that applies to employers; other agencies enforce the part of the law that applies to health insurance providers.

Genetic Information Discrimination and Harassment

It is unlawful to harass someone because of his genetic information. Harassment can include, for example, offensive or derogatory remarks about an applicant or employee's genetic information, or the genetic information of a relative of the applicant or employee. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Employment Policies/Practices

It will usually be unlawful for an employer to get someone's genetic information or to reveal someone's genetic information.

An employer may never use genetic information to make an employment decision, because genetic information doesn't tell the employer anything about someone's current ability to work.

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