



EMPLOYEE RELATIONS

602.6 – GENETIC INFORMATION NONDISCRIMINATION ACT (GINA) POLICY

- 1. Policy Purpose:** To implement Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) that protects individuals against employment discrimination based on genetic information.

Policy Coverage: This policy is applicable to all employees (represented and non-represented, part-time (hourly), temporary/casual/seasonal, provisional, board members, volunteers, as well as contract and temporary workers and anyone else on the District's property) of the East Fork Fire Protection District.

Adopted Date: 01/15/2019

Revised Date: N/A

Policy #: 602.6

***The procedure established in this policy will be superseded and have no effect when covered by a similar or conflicting provision in a Collective Bargaining Agreement and/or Administrative Order. For detailed information, please refer to your Collective Bargaining Agreement or Administrative Order.

- 2. Policy:**

A. Definition

Employers with 15 or more employees must comply with the federal regulations associated with the Genetic Information Nondiscrimination Act (GINA). When requiring employees or applicants to see a health care provider for work-related medical exams, pre-employment physicals, ADA accommodations, fitness-for-duty exams, request for sick leave in excess of 5 consecutive days or more, or similar work-related medical exams, the employer must state to the applicant, employee, AND the health care provider that no genetic information is sought by or to be relayed to the employer under Title II provisions of GINA.

B. Prohibitions

Title II of GINA prohibits the use of genetic information in making employment decisions, such as hiring, firing, advancement, compensation, and other terms, conditions, and privileges of employment.

Under Title II of GINA, it is illegal to fire, demote, harass, or retaliate against an applicant or employee for filing a charge of discrimination, participating in a discrimination proceeding (such as a discrimination investigation or lawsuit), or otherwise opposing discrimination.

There are no exceptions to the prohibition on using genetic information to make employment decisions.

GINA also prohibits employers from requesting, requiring, or purchasing genetic information about applicants or employees. There are six very limited circumstances under which an employer may request, require, or purchase genetic information. For a full listing of these limited exceptions, please refer to the Title II of GINA. The following are a few of exceptions listed under Title II of GINA:

- Where the information is acquired inadvertently, in other words, accidentally;
- As part of a health or genetic service, such as a wellness program, that is provided by the employer on a *voluntary* basis;
- In the form of family medical history to comply with the certification requirements of the Family and Medical Leave Act, state or local leave laws, or certain employer leave policies.

Because GINA prohibits employers from requesting, requiring, or purchasing genetic information about an individual, when an employer asks for information about an applicant's or employee's current health status as listed under *Section A – Definition* of this policy, it should warn the applicant, employee and the employee's health care provider from whom it is requesting the information not to provide genetic information (See 602.6F - "*Request for Medical/Sick Leave Documentation – GINA Warning” form*).

It is also unlawful to disclose genetic information about applicants, employees or members. The District must keep genetic information confidential and in a separate medical file. (Genetic information may be kept in the same file as other medical information obtained in compliance with the Americans with Disabilities Act.) There are limited exceptions to this non-disclosure rule, such as exceptions that provide for the disclosure of relevant genetic information to government officials investigating compliance with Title II of GINA and for disclosures made pursuant to a court order.

RESPONSIBILITY FOR REVIEW: The District Fire Chief, or his designee and/or the Executive Office Manager, or his/her designee will review this policy every 3 years or sooner as necessary.