

Book	Policy Manual
Section	POLICIES FOR BOARD APPROVAL - VOL. 38 NO. 1 - Nondiscrimination
Title	Updated Copy of NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE
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#### **~~1422.02~~ NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE**

~~The School 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 1422—Nondiscrimination and Equal Employment Opportunity) shall be posted throughout the School Corporation and published in any Corporation 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 Corporation as required by Federal and State law and on the Corporation 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. 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 genetic information, including their 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 Corporation'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 Corporation employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Corporation.f~~

~~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 Corporation 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 (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 Corporation'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 Corporation's Compliance Officer (see Policy 1422—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 insure 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 Corporation. The Compliance Officer also shall 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 written warning shall contain the information in the following sample notice:

#### **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**

The Genetic Information Nondiscrimination Act of 2008 or "GINA" prohibits employers and other entities covered by the law, including the South Gibson School Corporation, from requesting or requiring genetic information about 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 812-753-4230.

The grievance procedure for complaints of discrimination in Policy 1422 applies to complaints of discrimination, including harassment, or retaliation prohibited by GINA and may be utilized if a Corporation 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 of the Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635