



November 2009

Volume 1, Issue 10



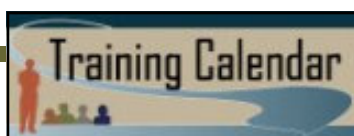
What is the best way to prevent discrimination in the workplace? Making sure all employees have the same understanding of the expectations. If something does occur, they need to know what to do, who to see and what details they should report. Now what is the best way to get this message out? Training, plain and simple training. In my day, that meant face to face, in today's world, that may mean on-line, face to face or through independent study. The bottom line, no matter how it is done, it is important to make sure it is done.

In the Office of Diversity and Equality, we plan on providing three specific workshops next year sexual harassment prevention, anti-harassment training and diversity training. These courses will be offered at the Governmental Services Center (GSC) on a rotating basis each month of 2010. We also receive special request for training on a first come, first serve basis. Many agencies have their own training curriculums and also provide these workshops to their internal employees as well as many other courses that benefit the professional development of staff. If you are offering any unique training opportunities, please let us in ODE know about it, it may be something in which other agencies could also benefit.

As we close out the calendar year we are entering the holiday season. Make sure that any events sponsored by your agencies are conscience of the diversity of staff. We have numerous cultures represented in our workforce and many times it is up to us in the EEO field to be the ones to let our co-workers understand there are many different beliefs and celebrations taking place and to be respectful and considerate of other staff. It is also a great opportunity to learn about these differences and find ways to bridge our relationships so everyone can enjoy themselves as we all celebrate this festive season.

On behalf of the entire staff of ODE, best wishes to all as we end this year and begin to prepare for the challenges and opportunities ahead in 2010.

Yours,
Singer Buchanan



2010 Training Schedule—*To Be Announced*

For more information contact Colene Elridge at

ColeneH.Elridge@ky.gov or 502-564.8000



Genetic Information Discrimination

Title II of the Genetic Information Nondiscrimination Act of 2008, which prohibits genetic information discrimination in employment, takes effect on November 21, 2009.

Under Title II of the Genetic Information Nondiscrimination Act (GINA), it is illegal to discriminate against employees or applicants because of genetic information. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts acquisition of genetic information by employers and other entities covered by Title II, and strictly limits the disclosure of genetic information.

The EEOC enforces Title II of GINA (dealing with genetic discrimination in employment). The Departments of Labor, Health and Human Services and the Treasury have responsibility for issuing regulations for Title I of GINA, which addresses the use of genetic information in health insurance.

Definition of “Genetic Information”

Genetic information includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about any disease, disorder, or condition of an individual’s family members (i.e. an individual’s family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.

Discrimination Because of Genetic Information

The law forbids discrimination on the basis of genetic information when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, or any other term or condition of employment. 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.

Harassment Because of Genetic Information

Under GINA, it is also illegal to harass a person because of his or her genetic information. Harassment can include, for example, making offensive or derogatory remarks about an applicant or employee’s genetic information, or about 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 severe or pervasive 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, such as a client or customer.

Retaliation Because of Genetic Information Discrimination

Under GINA, it is illegal to fire, demote, harass, or otherwise “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.

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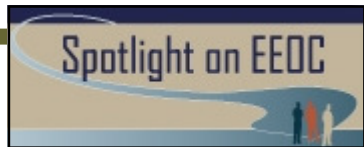
Rules Against Acquiring Genetic Information

It will usually be unlawful for an employer to get genetic information. There are six narrow exceptions to this prohibition:

- Inadvertent acquisitions of genetic information do not violate GINA, such as in situations where a manager or supervisor overhears someone talking about a family member's illness.
- Genetic information (such as family medical history) may be obtained as part of health or genetic services, including wellness programs, offered by the employer on a voluntary basis, if certain specific requirements are met.
- Genetic information may be acquired as part of the certification process for FMLA leave (or leave under similar state or local laws), where an employee is asking for leave to care for a family member with a serious health condition.
- Acquisition through commercially and publicly available documents like newspapers is permitted, as long as the employer is not searching those sources with the intent of finding genetic information.
- Acquisition through a genetic monitoring program that monitors the biological effects of toxic substances in the workplace is permitted where the monitoring is required by law or, under carefully defined conditions, where the program is voluntary.
- Acquisition of genetic information of employees by employers who engage in DNA testing for law enforcement purposes as a forensic lab or for purposes of human remains identification is permitted, but the genetic information may only be used for analysis of DNA markers for quality control to detect sample contamination.

Confidentiality of Genetic Information

It is also unlawful for an employer to disclose genetic information about applicants or employees. Employers must keep genetic information confidential and in a separate medical file. (Genetic information may be kept in the same file as other medical information in compliance with the Americans with Disabilities Act.) There are limited exceptions to this non-disclosure rule.



Utah Japanese Restaurant To Pay \$30,000 To Settle EEOC Pregnancy Discrimination Suit

<http://www.eeoc.gov/eeoc/newsroom/release/11-16-09.cfm>

Bellco Credit Union Agrees To Pay \$57,250 To Settle EEOC Age Discrimination Lawsuit

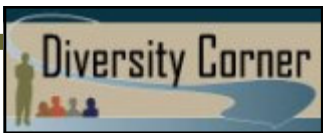
<http://www.eeoc.gov/eeoc/newsroom/release/11-13-09.cfm>

Cheesecake Factory Settles EEOC Suit in Case of Severe Same-Sex Sexual Harassment

<http://www.eeoc.gov/eeoc/newsroom/release/11-10-09.cfm>

Regal Entertainment Group to Pay \$175,000 for Sex Harassment of Man by Female Co-Worker

<http://www.eeoc.gov/eeoc/newsroom/release/11-9-09a.cfm>



The Governor's Office for Boards and Commissions is always looking for talented people to serve on the various Boards and Commissions. By statute, they are charged with gender equity and strive for racial and geographical diversity as well. If you or any of your staff are interested in applying, or you just want to see what is out there, visit their website at <http://governor.ky.gov/office/boards.htm>. You may also contact Delquan Dorsey, Executive Director of the Governor's Office for Minority Employment, at 502.564.2611 for more information.



2010 ODE Strategic Plan *(Second in a Four Part Series)*

As our partners in creating a workforce that values diversity and equal opportunity, the ODE staff feels it is important and necessary to share with you our strategic vision. Over the course of the next four months we will be including in this newsletter ODE's answers to the Personnel Cabinet's Four Big Questions. Please feel free to share with us your ideas on how we can move forward and actualize these goals!

Question 2: How will we make Kentucky State Government the best place to work?

We will help prepare minorities throughout state government for management and leadership positions.

1. Achieve a one-hundred percent (100%) graduation rate for the GMMTP 2011 class.
2. Develop second year training schedule focused on hands-on learning and development for GMMTP class of 2011.

We will develop a workforce (present and future) that values diversity

1. Seek to engage and train all cabinet secretaries in diversity awareness.
2. Track the number of participants at trainings and events.
3. Review agency orientation programs for diversity content.
4. Train ten-percent (10%) of state government Leadership (Officials and Administration) in Diversity.
5. Plan and host Heritage Month Activities.
6. Provide quarterly training in the areas of sexual harassment, anti-harassment and diversity.



Quotes



“As long as the differences and diversities of mankind exist, democracy must allow for compromise, for accommodation, and for the recognition of differences..”

- Eugene McCarthy

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