



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

Published on *MTAS* (<https://www.mtas.tennessee.edu>)

August 05, 2020

## GINA and HIPAA, Employment, Genetic Information

---

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

## Table of Contents

GINA and HIPAA, Employment, Genetic Information .....	3
---	---

## GINA and HIPAA, Employment, Genetic Information

**Reference Number:** MTAS-1243

### **HIPAA**

In 1996, HIPAA was passed to address concerns about discrimination based on a person's health information. According to medscape.com, "HIPAA was the first step toward restricting the use of genetic information by limiting its use in setting insurance premiums and determining a person's eligibility for health insurance coverage." However, HIPAA did not prevent health insurers from charging a higher rate for a group by raising the premium when it learned that covered employees had a genetic disease or disorder. HIPAA did limit insurance companies from collecting genetic information, or requiring that a person take a genetic test before issuing health coverage. (Dale Halsey Lea, "The Genetic Information Nondiscrimination Act (GINA): What it Means for Your Patients and Families: Before GINA: The Need.")

### **What is genetic discrimination?**

Genetic discrimination is similar to other forms of discrimination - where people are treated unfairly because of their DNA (likelihood of getting certain diseases) or family history of a disease.

### **What does GINA consider family?**

For purposes of GINA, consider any family members who are dependents of the primary individual (employee or applicant) as a result of marriage, birth adoption, or placement for adoption and through fourth-degree blood relatives. If the degree of blood is unknown, it is safest to assume they are protected under GINA.

### **Employment and GINA**

Title II of GINA prohibits covered entities from improper use of genetic information in employment including the application process. Employers are prohibited from using individuals' genetic information when making employment decisions such as: hiring, promotion, termination, or placement determinations. GINA sends the message that an employee or applicant's genetic information is off limits and can in no way impact an employment decision.

The law was designed to help ease concerns and encourage people to pursue genetic testing without fear of discrimination or retaliation. Prior to GINA, many Americans were simply afraid to get a genetic test for fear that their insurance would be canceled or that the results would be released to their employer, who would use it against them in the workplace. More specifically, GINA prohibits employers and covered entities from:

- Using genetic information to make decisions regarding employment, hiring, promotion, terms or conditions of employment, privileges of employment, compensation, or termination.
- Segregating, classifying, or depriving an individual of employment opportunities on the basis of genetic information.
- Requesting requiring or purchasing genetic information on an individual or family member with rare exceptions.
- Failing or refusing to refer an individual for employment on the basis of genetic information nor can the covered entity attempt to cause an employer from discriminating against an individual on the basis of genetic information.
- Using genetic information in making decisions regarding admission to or employment in any program for apprenticeship or training and retraining, including on the job training.
- Excluding or expelling from membership, or otherwise discriminate against an individual because of genetic information.

### **Covered Genetic Information**

According to EEOC, genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as family history and information about the manifestation of a disease or disorder that pertains to a person's family members such as family medical history. Family history is included in the definition of genetic information because risk factors are often determined based on family history of diseases. Genetic information may also include a person's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or family member of the individual, and the genetic information of a

fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using assisted reproductive methods. (eoc.gov; <http://www.eoc.gov/laws/types/genetic.cfm> [1])

---

**Links:**

[1] <http://www.eoc.gov/laws/types/genetic.cfm>

*DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.*

**Source URL (retrieved on 08/05/2020 - 6:18am):** <https://www.mtas.tennessee.edu/reference/gina-and-hipaa-employment-genetic-information>



**Municipal Technical Advisory Service**  
INSTITUTE *for* PUBLIC SERVICE