

Equal Employment Opportunity Comm.

§ 1635.2

§ 1630.5 Limiting, Segregating and Classifying.

[56 FR 35734, July 26, 1991, as amended at 65 FR 36327, June 8, 2000; 76 FR 17003, Mar. 25, 2011; 81 FR 31140, May 17, 2016]

PART 1635—GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008

Sec.

- 1635.1 Purpose.
- 1635.2 Definitions—general.
- 1635.3 Definitions specific to GINA.
- 1635.4 Prohibited practices—in general.
- 1635.5 Limiting, segregating, and classifying.
- 1635.6 Causing a covered entity to discriminate.
- 1635.7 Retaliation.
- 1635.8 Acquisition of genetic information.
- 1635.9 Confidentiality.
- 1635.10 Enforcement and remedies.
- 1635.11 Construction.
- 1635.12 Medical information that is not genetic information.

AUTHORITY: 29 U.S.C. 2000ff.

SOURCE: 75 FR 68932, Nov. 9, 2010, unless otherwise noted.

§ 1635.1 Purpose.

(a) The purpose of this part is to implement Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, *et seq.* Title II of GINA:

- (1) Prohibits use of genetic information in employment decision-making;
- (2) Restricts employers and other entities subject to Title II of GINA from requesting, requiring, or purchasing genetic information;
- (3) Requires that genetic information be maintained as a confidential medical record, and places strict limits on disclosure of genetic information; and
- (4) Provides remedies for individuals whose genetic information is acquired, used, or disclosed in violation of its protections.

(b) This part does not apply to actions of covered entities that do not pertain to an individual's status as an employee, member of a labor organization, or participant in an apprenticeship program. For example, this part would not apply to:

- (1) A medical examination of an individual for the purpose of diagnosis and treatment unrelated to employment, which is conducted by a health care

professional at the hospital or other health care facility where the individual is an employee; or

(2) Activities of a covered entity carried on in its capacity as a law enforcement agency investigating criminal conduct, even where the subject of the investigation is an employee of the covered entity.

§ 1635.2 Definitions—general.

(a) *Commission* means the Equal Employment Opportunity Commission, as established by section 705 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-4.

(b) *Covered Entity* means an employer, employing office, employment agency, labor organization, or joint labor-management committee.

(c) *Employee* means an individual employed by a covered entity, as well as an applicant for employment and a former employee. An employee, including an applicant for employment and a former employee, is:

(1) As defined by section 701 of the Civil Rights Act of 1964, 42 U.S.C. 2000e, an individual employed by a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year and any agent of such a person;

(2) As defined by section 304(a) of the Government Employee Rights Act, 42 U.S.C. 2000e-16c(a), a person chosen or appointed by an individual elected to public office by a State or political subdivision of a State to serve as part of the personal staff of the elected official, to serve the elected official on a policy-making level, or to serve the elected official as the immediate advisor on the exercise of the elected official's constitutional or legal powers.

(3) As defined by section 101 of the Congressional Accountability Act, 2 U.S.C. 1301, any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment;