

Policy Title: Genetic Information Non-Discrimination

Effective Date: November 21, 2009

Policy

It is the policy of Willamette University to prohibit discrimination on the basis of genetic information. As required under Title II of the Genetic Information Non-Discrimination Act, effective November 21, 2009, the University and its representatives may not request, require, or purchase genetic information about an individual, subject to limited exceptions described below.

The University prohibits using genetic information, including information obtained inadvertently, to discriminate against any employee or applicant in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. This prohibition extends to making employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals on the basis of genetic information.

For purposes of this policy, the term “genetic information” means information about:

- An individual’s genetic tests;
- The genetic tests of that individual’s family members; and
- The manifestation of disease or disorder in family members of the individual (family medical history).

Even the inadvertent acquisition of genetic information (i.e., if an employee casually mentions that a family member has cancer) cannot be disclosed, nor can it be considered when making employment-related decisions.

Procedure

In accordance with this policy, managers, supervisors, and other University representatives are expected to understand what type of information requests are permitted, what type of requests are prohibited, and recognize that any genetic information obtained must be kept confidential.

Family and medical leave

This policy and the law should not be construed to preclude the University from requiring medical certification pursuant to requests for leave under the Federal Family and Medical Leave Act (FMLA) or the Oregon Family Leave Act (OFLA). Employees who request leave to care for a family member with a serious health condition may be required to provide a medical certification to support that request. Such requests for certification are not unlawful requests for genetic information, even though the certification may include information about the medical history of a family member. As always, any information provided will be kept confidential and separate from the employee’s regular personnel file, and will not be considered in decisions affecting any terms or conditions of employment.

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Inadvertent acquisition of genetic information/ADA Accommodations

Supervisors or other University representatives may inadvertently acquire genetic information by, for example, overhearing an employee discussion of family medical issues. Similarly, an employee who provides documentation to support a request for reasonable accommodation under the Americans with Disabilities Act (ADA) might offer genetic information which was not requested. Any genetic information acquired, even unintentionally, must be maintained as confidential to the same extent as medical information under the ADA. Requests for documentation to support an ADA accommodation request cannot include requests for genetic information.

Supervisors or other University representatives might inadvertently acquire genetic information about an applicant or employee through newspapers, magazines, the Internet, or other media. The use of such information is restricted as described above. It is also unlawful for University representatives to research medical databases or court records to obtain genetic information on employees or prospective employees, even if those records are publicly available.

Other permitted requests

This policy and the corresponding law shall not be construed to prohibit the University from requesting certain medical information from employees who voluntarily participate in a wellness program, or for the purpose of monitoring and evaluating workplace hazards, subject to certain restrictions. In such cases, the University will follow such guidelines as are proscribed under the law.

Posting notices and inquiries

Human Resources is responsible for posting notices concerning the Genetic Information Non-Discrimination Act as required by law. Any questions concerning this policy, or any claims filed under this policy, should be addressed to the Director of Human Resources.

Non-Retaliation

It is unlawful to retaliate against an individual for opposing employment practices that discriminate based on genetic information or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation.