



Regulatory Alert

Family and Medical Leave Act

President Obama signed into law the Fiscal Year 2010 National Defense Authorization Act on October 28, 2009. The new law includes an expansion of the recently-enacted exigency and caregiver leave provisions for military families under the Family and Medical Leave Act of 1993 (FMLA) to provide the following:

- Expands the exigency leave benefits to include family members of active duty service members. Under current law, only family members of National Guard and Reservists are eligible for "exigency leave."
- Expands the caregiver leave provision to include veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment.

Genetic Information Nondiscrimination Act (GINA)

On May 21st, 2008, President Bush signed into law the Genetic Information Nondiscrimination Act (GINA), which prohibits U.S. insurance companies and employers from discriminating on the basis of information derived from genetic tests. The employment provisions of this act and the federal posting requirements take effect on November 21, 2009.

GINA protects Americans from discrimination based on information derived from genetic tests. It forbids insurance companies from discriminating through reduced coverage or pricing and prohibits employers from making adverse employment decisions based on a person's genetic code. In addition, insurers and employers are not allowed under the law to request or demand a genetic test.

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For more information on how these regulatory changes might affect your business and/or for assistance in revising your employee handbook to incorporate these changes in the law, please contact June Garafano, Director of Client Services, at **215-654-9140 x404** or jgarafano@proxushr.com.

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November 11, 2009

“EEO is the Law” Poster Supplement

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations revisions

The Disability section is revised as follows:

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

The following section is added:

GENETICS

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers’ acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

The EEOC contact information is revised as follows:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

Employers Holding Federal Contracts or Subcontracts section revisions

The Individuals with Disabilities section is revised as follows:

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

The Vietnam Era, Special Disabled Veterans section is revised as follows:

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS

The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

The following section is added:

RETALIATION

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

The OFCCP contact information is revised as follows:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.