

### **EMPLOYEE MEDICAL INFORMATION**

The Board of Education recognizes the importance of preserving the confidentiality of medical information concerning employees. The Board treats medical information or records containing medical information as confidential and protected from disclosure unless specifically required by law.

#### **Definitions**

“Medical information” means information about the medical condition, history, diagnosis, prognosis, or treatment of an individual. Medical information specifically includes genetic information as defined in the Genetic Information Nondiscrimination Act (“GINA”) and its implementing regulations.

“Genetic information” means information about genetic tests of an individual or family members, an individual’s family medical history, a request for or receipt of genetic services, counseling or education by an individual or family members, and the genetic information of a fetus or embryo of an individual or family members.

#### **Treatment of Medical Information**

To fulfill its obligations under federal and state laws, the Board shall treat medical information as follows:

1. Records containing medical information are not public records subject to disclosure under the Ohio Public Records Act.
2. District records containing medical information of an employee or applicant shall be maintained as confidential medical records, separate and apart from employee or applicant personnel files, and protected from unauthorized disclosure through use of a locked file cabinet or similar protections.
3. All requests from the District for medical information of an employee or employee’s family member shall include the following notice to the person from whom such information is requested:

“The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information’ as defined by GINA includes an

individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

This notice must accompany any request for medical information made pursuant to a request for sick leave, unpaid leave of absence, Family and Medical Leave Act (FMLA) leave, accommodation under the Americans with Disabilities Act (ADA), return to work certification, or for any other purpose other than a request for leave to care for a sick family member.

4. The District shall not discriminate against an individual on the basis of the individual’s genetic information.
5. The District shall not request, require, or purchase genetic information of individuals or family members.
6. District officials, administrators and supervisors shall not solicit, seek, or probe for genetic information from employees.
7. The District shall not disclose any genetic information, unless acquired through sources that are commercially and publicly available, except in compliance with federal law.
8. As part of a voluntary wellness program, the District may request genetic information from an individual only if:
  - (A) the individual completes a written authorization that describes the type of information obtained, the general purpose for which it will be used, and restrictions on disclosure;
  - (B) individually identifiable information is provided only to the individual and the health care professionals who are providing services;
  - (C) individually identifiable information is not accessible to anyone else in the workplace;
  - (D) individually identifiable information is used only for purposes of the wellness program;

- (E) individually identifiable information is not disclosed to the District except in aggregate terms that do not disclose the identity of specific individuals; and
- (F) any financial inducement offered for individuals to provide a health risk assessment includes language that makes clear that the provision of genetic information is not required and the inducement is available whether or not the questions requesting genetic information are answered. This language shall clearly indicate which questions are requesting genetic information and therefore do not have to be answered.

LEGAL REFS:           Ohio Public Records Act, O.R.C. §149.43  
                          Family Medical Leave Act, 29 U.S.C. §2601 *et seq.*  
                          Americans with Disabilities Act, 42 U.S.C. §12112  
                          Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff *et seq.*; 29  
                          CFR Part 1635.

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