Sec. 1. NONDISCRIMINATION IN GENERAL

Academy of Accelerated Learning, Inc., (AAL) shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability;
6. Genetic information; or
7. Pregnancy.

42 U.S.C. § 1981; 42 U.S.C. § 2000e et seq. (Title VII); 20 U.S.C. § 1681 et seq. (Title IX); 42 U.S.C. § 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. § 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. § 793, 794 (Rehabilitation Act); 42 U.S.C. § 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Tex. Lab. Code Chapter 21 (Texas Commission on Human Rights Act); Tex. Lab. Code Chapter 21, Subchapter H (genetic information); 42 U.S.C. § 2000gg et seq. (Pregnant Workers Fairness Act (PWFA)).

a) *Job Qualification*

AAL may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. *42 U.S.C. § 2000e-2(e); 29 U.S.C. § 623(f); Tex. Lab. Code 21.119*.

b) *Employment Postings*

AAL shall not print or publish any notice or advertisement relating to school employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification. *42 U.S.C. § 2000e-3(b); Tex. Lab. Code 21.059*.

c) *Harassment of Employees*

AAL shall maintain a working environment free of harassment on the basis of protected characteristics. *42 U.S.C. § 2000e et seq.; 29 C.F.R. § 1606.8(a), 1604.11*.

d) *Retaliation*

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AAL may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. § 623(d) (ADEA); 42 U.S.C. § 2000e-3(a) (Title VII); 34 C.F.R. § 100.7(e) (Title VI); 34 C.F.R. § 110.34 (Age Act); 42 U.S.C. § 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Tex. Lab. Code 21.055; 42 U.S.C. § 2000gg et seq. (PWFA); 42 U.S.C. § 2000ff-6(f) (GINA); 40 TAC 819.12(e)*.

e) *Notices*

The Superintendent or designee shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. *29 U.S.C. § 627; 42 U.S.C. § 2000e-10*.

i. *Section 504 Notice*

The Superintendent or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that AAL does not discriminate on the basis of disability.

The notice shall state:

1. That AAL does not discriminate in employment in its programs and activities; and
2. The identity of AAL's 504 Coordinator.

Methods of notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in School publications; and
4. Distributing memoranda or other written communications.

If AAL publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

34 C.F.R. § 104.8.

f) *Racial Discrimination Based on Hair Texture or Protective Hairstyle*

For purposes of AAL policy, any provision referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race. The term "protective hairstyle"

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includes braids, locks, and twists. A school commits an unlawful employment practice if the district adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race. *Tex. Lab. Code § 21.1095*.

Sec. 2. AGE DISCRIMINATION

The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older. *29 U.S.C. § 631*; *Tex. Lab. Code § 21.101.*

AAL may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. § 623(f); Tex. Lab. Code § 21.102*.

Sec. 3. SEX DISCRIMINATION

a) *Gender Stereotypes*

AAL may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)*.

b) *Pregnancy*

AAL shall treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. § 2000e(k); 42 U.S.C. Ch. 21G (Pregnant Worker Fairness Act); 29 C.F.R. § 1604.10; Tex. Lab. Code § 21.106*.

c) *Equal Pay*

AAL may not pay an employee at a rate less than the rate paid to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. § 206(d)(Equal Pay Act); 34 C.F.R. § 106.54 (Title IX)*.

d) *Gay and Transgender*

The prohibition against discrimination because of sex includes discrimination on the basis of an individual being gay or transgender. *Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 (2020)*.

Sec. 4. RELIGIOUS DISCRIMINATION

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The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless AAL demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to AAL's business. "Undue hardship" means more than a de minimus (minimal) cost. *42 U.S.C. § 2000e(j); 29 C.F.R. § 1605.2; Tex. Lab. Code § 21.108*.

AAL may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Tex. Civ. Prac. & Rem. Code 110.003*.

Sec. 5. DISABILITY DISCRIMINATION

AAL may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. § 12112(a), 12201(g); 29 U.S.C. § 794(a); Tex. Lab. Code §§ 21.051, 21.105*.

a) *Discrimination Based on Lack of Disability*

The Americans with Disabilities Act ("ADA") and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. § 12201(g); 29 C.F.R. § 1630.4(b); Tex. Lab. Code § 21.005(c)*.

AAL must take positive efforts, if it receives assistance under the Individuals with Disabilities Education Act ("IDEA"), to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA. *34 C.F.R. § 300.177(b)*.

The ADA and the TCHRA do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. § 12201(g); 29 C.F.R. § 1630.4(b); Tex. Lab. Code § 21.005(c).*

b) *Definition of Disability*

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being "regarded as" having an impairment if the individual

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establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. *42 U.S.C. § 12102(1),(3),(4); 29 C.F.R. § 1630.2(g); Tex. Lab. Code §§ 21.002, 21.0021.*

c) *Mitigating Measures*

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. § 12102(1),(3),(4); 29 C.F.R. § 1630.2(g), (j)(1); Tex. Lab. Code §§ 21.002, .0021.

d) *Other Definitions*

i. *Physical or Mental Impairment*

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. § 1630.2(h).

ii. *Major Life Activities*

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activities" also include the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive

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functions. The operation of a major bodily function includes the operation of an individual organ within the body system. 42 *U.S.C. § § 12102(2); 29 C.F.R. § 1630.2(i); Tex. Lab. Code § 21.002*.

iii. *Qualified Individual*

"Qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions. 42 *U.S.C. § 12111(8); 29 C.F.R. § 1630.2(m)*.

e) *Reasonable Accommodations*

AAL shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless AAL can demonstrate that the accommodation would impose an undue hardship on the operation of AAL. *42 U.S.C. § 12112(b)(5); 29 C.F.R. § 1630.2(o)(4), .9; 29 U.S.C. § 794; 34 C.F.R. § 104.11; Tex. Lab. Code § 21.128*.

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. § 12111(9); 29 C.F.R. § 1630.2(o); 34 C.F.R. § 104.12(b).

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and AAL, and other factors set out in law. *42 U.S.C. § 12111(10); 29 C.F.R. § 1630.2(p); 34 C.F.R. § 104.12(c)*.

f) *Discrimination Based on Relationship*

AAL shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. § 12112(b)(4); 29 C.F.R. § 1630.8; 34 C.F.R. § 104.11*.

g) *Illegal Drugs and Alcohol*

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The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when AAL acts on the basis of such use.

i. *Drug Testing*

AAL is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests. *42 U.S.C. § 12114(c), (d); Tex. Lab. Code § 21.002(6)(A)*.

ii. *Alcohol Use*

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. § 12114(a); 29 U.S.C. § 705(20)(C); 29 C.F.R. § 1630.3(a); 28 C.F.R. § 35.104; Tex. Lab. Code § 21.002(6)(A)*.

h) *Qualification Standards*

i. *Direct Threat to Health or Safety*

As a qualification standard, AAL may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. § 12111(3); 29 C.F.R. § 1630.2(r); Tex. Lab. Code § 21.002(6)(B)*.

ii. *Vision Standards and Tests*

AAL shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by AAL, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. § 12113(c); 29 C.F.R. § 1630.10(b); Tex. Lab. Code § 21.115(b)*.

iii. *Communicable Diseases*

AAL may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. § 12113(e); 29 U.S.C. § 705(20)(D); 29 C.F.R. § 1630.16(e); Tex. Lab. Code § 21.002(6)(B)*.

i) *Service Animals*

AAL shall comply with the reasonable accommodation requirements of Title I of the ADA and/or

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Section 504 of the Rehabilitation Act with respect to service animals. *28 C.F.R. § 35.140*.

Sec. 6. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE

AAL shall, subject to any undue hardship exceptions allowed under the law, provide:

1. A reasonable break time for an employee to express breast milk for such employee's nursing child for one year after the child's birth each time the employee has need to express the milk; and
2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

Sec. 7. NONDISCRIMINATION BASED ON PREGNANCY

AAL is fully committed to complying with the Pregnant Workers Fairness Act ("PWFA"), which allows qualified employees to receive reasonable accommodations to the known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would impose an undue hardship on AAL.

AAL does not discriminate against qualified employees because they are pregnant.

Sec. 8. MILITARY SERVICE

AAL shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. AAL shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). *38 U.S.C. § 4311*.

Sec. 9. GENETIC NONDISCRIMINATION

a) *Definitions*

For the purpose of the Genetic Information Nondiscrimination Act (GINA), "genetic information" means information about:

1. An individual's genetic tests;
2. The genetic tests of that individual's family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual's request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the

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individual; or
5. 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 an assisted reproductive technology.

"Genetic information" ***does not include*** information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 C.F.R. § 1635.3(c).

"Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, but are not limited to:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington's Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;
4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;
6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;
7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;

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4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 C.F.R. § 1635.3(f).

b) *Notices*

The Superintendent or designee shall post in conspicuous places on school premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint. *29 C.F.R. § 1635.10(c)*.

c) *Prohibited Practices*

i. *Discrimination*

AAL shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment. *42 U.S.C. § 2000ff-1(a); 29 C.F.R. § 1635.4*.

ii. *Retaliation*

AAL shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA. *41 U.S.C. § 2000ff-6(f); 29 C.F.R. § 1635.7*.

iii. *Acquisition*

Except as set forth below or otherwise provided in the GINA regulations, AAL shall not request, require, or purchase genetic information of an individual or family member of the individual. *42 U.S.C. § 2000ff-1(b); 29 C.F.R. § 1635.8(a)*.

"Request" includes:

1. Conducting an Internet search on an individual in a way that is likely to result AAL's obtaining genetic information;
2. Actively listening to third-party conversations or searching an individual's personal effects for the purpose of obtaining genetic information; and
3. Making requests for information about an individual's current health status in a way that is likely to result in AAL's obtaining genetic information.

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29 C.F.R. § 1635.8(a).

iv. *Disclosure*

Except as set forth in the GINA regulations, AAL shall not disclose the genetic information of an employee, regardless of how AAL obtained the information. *29 C.F.R. § 1635.9(b)*.

d) *Manifested Condition*

AAL shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA. *29 C.F.R. § 1635.12*.

"Manifestation" or "manifested" means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information. *29 C.F.R. § 1635.3(g)*.

e) *Inadvertent Acquisition*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where AAL inadvertently requests or requires genetic information of the individual or family member of the individual. This exception applies in, but is not necessarily limited to, situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a supervisor receives an unsolicited e-mail about the health of an employee's family member from a co-worker); or
4. Accessing a social media platform that the supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site, and the employee provides family medical history on his page).

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29 C.F.R. § 1635.8(b)(1)(ii).

f) *Requests for Medical Information*

If AAL acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless AAL directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information. *29 C.F.R. § 1635.8(b)(1)(i)(A)*.

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law where the disability and/or need for accommodation is not obvious, the documentation is no more than is sufficient to establish that an individual has a disability and needs a reasonable accommodation, and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act ("FMLA") to attend to the employee's own serious health condition or where an employee complies with the FMLA's employee return to work certification requirements; or
3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request otherwise complies with the requirements of the ADA and other laws limiting AAL's access to medical information.

29 C.F.R. § 1635.8(b)(1)(i)(D).

i. *Safe Harbor*

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if AAL uses language such as the following:

"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

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services."

AAL's failure to give such a notice or to use this or similar language will not prevent AAL from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in AAL's obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 C.F.R. § 1635.8(b)(1)(i)(B), (C).

g) *Employment Examinations*

The prohibition on acquisition of genetic information applies to medical examinations related to employment. AAL shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job. *29 C.F.R. § 1635.8(d)*.

i. *Remedial Measures*

AAL shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a health-care professional who continues to request or require genetic information during medical examinations after being informed not to do so. *29 C.F.R. § 1635.8(d)*.

h) *Health or Genetic Services*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where AAL offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at 29 C.F.R. § 1635.8(b)(2) are met.

AAL may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. AAL shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

AAL may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, AAL must also offer these programs to individuals with current

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health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 C.F.R. § 1635.8(b)(2).

i) *Leave Requests*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where AAL requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave. *29 C.F.R. § 1635.8(b)(3)*.

j) *Publicly Available Information*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where AAL acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information communicated through television, movies, or the Internet, except that this exception does not apply to:

1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless AAL can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if AAL sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if AAL is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 C.F.R. § 1635.8(b)(4).

k) *Workplace Monitoring*

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where AAL acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at 29 C.F.R. § 1635.8(b)(5). *29 C.F.R. § 1635.8(b)(5)*.

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l) *Inquiries Made of Family Members*

AAL does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by AAL or who is receiving health or genetic services on a voluntary basis. For example, AAL does not violate the GINA regulations by asking someone whose sister also works for AAL to take a post-offer medical examination that does not include requests for genetic information. *29 C.F.R. § 1635.8(c)*.

m) *Confidentiality*

The Superintendent or designee shall maintain genetic information in writing about an employee on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. AAL must treat such information as a confidential medical record. AAL may maintain genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. AAL will not be liable under the GINA regulations for the mere existence of the information in the file. However, the prohibitions on use and disclosure of genetic information apply to all genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that AAL receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 C.F.R. part 1635.

Genetic information that AAL acquires through sources that are commercially and publicly available, as provided by 29 C.F.R. § 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 C.F.R. § 1635.9(a).

n) *Disclosure Permitted*

AAL may disclose genetic information, regardless of how such information was obtained (except for genetic information acquired through commercially and publicly available sources), as follows:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 C.F.R. part 46;
3. In response to an order of a court. AAL may disclose only the genetic information expressly

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authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, AAL shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;

4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

29 C.F.R. § 1635.9(b).

o) *Relationship to HIPAA Privacy Regulations*

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). *29 C.F.R. § 1635.9(c)*.

Sec. 10. BANKRUPTCY DISCRIMINATION

AAL shall not terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under federal bankruptcy laws, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt:

1. Is or has been a debtor under federal bankruptcy laws;
2. Has been insolvent before the commencement of a case under federal bankruptcy laws or during the case but before the grant or denial of a discharge; or
3. Has not paid a debt that is dischargeable in a case under federal bankruptcy laws.

11 U.S.C. § 525(c).

Sec. 11. GRIEVANCE POLICIES

The Superintendent shall provide grievance procedure(s) concerning the following:

a) *Section 504*

That incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. § 104.7(b), 104.11*.

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b) ***Americans with Disabilities Act***

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. *28 C.F.R. § 35.107, 35.140*.

c) ***Title IX***

Providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 C.F.R. § 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)*.

Sec. 12. COMPLIANCE COORDINATOR

AAL shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Superintendent shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. *34 C.F.R. § 104.7(b), 104.11; 28 C.F.R. § 35.107, 35.140; 34 C.F.R. § 106.8(b)*.

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