



An Employer View of the Changes from the ADA Amendments Act

The Americans with Disabilities Act (ADA) is a law that protects the rights of people with disabilities in all aspects of employment. As an employer, it is important for you to understand your rights and responsibilities under this law. This factsheet explains the current law based on the most recent changes made by the 2008 ADA Amendments Act (ADAAA).

Background

The Americans with Disabilities Act (ADA) is a law passed by the U.S. Congress in 1990 that makes it against the law to discriminate against any qualified person with a disability. The ADA protects people with disabilities in many areas of public life, including employment.

After the law was passed, there was legal disagreement over what disability meant. Over the next 15 years, court decisions gradually narrowed the definition of disability. This made it very difficult for employees to prove they had a disability that would allow them to be protected under the ADA. As a result, the courts never thought about whether discrimination took place.

The ADA Amendments Act (ADAAA)

To address this problem, Congress passed the ADA Amendments Act (ADAAA) in 2008. The ADAAA stated that disability must be broadly defined to include more people. It also said that the law should focus on whether or not discrimination occurred. The ADAAA rejected two Supreme Court decisions that had played a large role in restricting the legal definition of disability.

The Equal Employment Opportunity Commission (EEOC) is the agency responsible for enforcing the ADA's employment regulations. The EEOC wrote new rules about the definition of disability based on the ADAAA changes.

What is covered under the ADA regulations?

The ADA applies to all employers with 15 or more employees. This includes private employers and state and local government employers. Employment agencies, labor organizations, and labor-management committees are also covered under the law.

The law protects employees with disabilities from discrimination in all aspects of employment including recruitment, interviewing, hiring, and being on the job and its benefits. On March 25, 2011 the EEOC published the ADAAA regulations, and they took effect May 24, 2011.



How does the ADA define disability?

The ADAAA did not change the basic definition of disability but made it easier to decide if an employee is covered. Under the ADA, a person has a qualified disability if he or she:

1. Has a physical or mental impairment (illness, injury or other condition) that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

Each employee's case needs to be looked at on an individual basis. Generally, it should not be too hard to determine if someone has a disability. However, if you need to verify the need for a reasonable accommodation due to a disability that is not obvious, you are allowed to request medical documents related to the request for accommodation.

What is included in the legal definition of a disability?

- **The impairment “substantially limits” a major life activity.** Examples of major life activities are breathing, walking, talking, hearing, thinking, seeing, sleeping, caring for one's self, performing manual tasks, and working. Major bodily functions are also included as major life activities in the ADA Amendments Act. For example, cancer affects normal cell growth, bipolar disorder affects brain function, and diabetes affects the endocrine system. A disability does not necessarily have to severely limit or prevent someone from performing a major life activity or prevent a major bodily function, but it does have to have a significant impact on the way the person lives. For example, a person who has arthritis that limits the use of his or her hands may be considered to have a disability. Not every impairment is a disability, however.
Even if a person uses medications, tools, or other therapies that improve symptoms, he or she still has a disability according to the ADA. For example, employees with diabetes who use insulin to keep their blood sugar stable are still considered to have a disability even though their insulin reduces the effects of their diabetes.
- **A condition that fits the definition of disability when active, but is in remission (not active) or only happens now and then, is still considered to be a disability.** For example, cancer that is in remission or a seizure condition that produces only occasional seizures are both covered disabilities, even though they may not affect someone at all times.
- **A person who is “regarded as” having a disability is also covered under the ADA definition of disability.** “Regarded as” means that others may think a person has a disability due to the person's appearance or other quality. For example, a woman whose face is badly scarred from an automobile accident applies for a job as a customer service representative. She is highly qualified for the job, but the interviewer does not want to hire her because he thinks customers will be uncomfortable looking at her. She is not substantially limited in any major life activity, but the interviewer is “regarding her as” if she has a disability.
Please note: A reasonable accommodation is a change to the workplace that allows an employee with a disability to do the main parts of the job. If an employee is only “regarded as” having a disability, no reasonable accommodation is required.



Resources

Fact Sheet on the EEOC's Final Regulations Implementing the ADAAA http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm.

If you have questions, call your regional ADA center at 1.800.949.4232.

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Northeast ADA Center

<http://www.northeastada.org/>

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