



National Network

Information, Guidance and Training on the
Americans with Disabilities Act

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An Employee View of the Changes from the ADA Amendments Act

If you are a qualified individual with a disability, the Americans with Disabilities Act (ADA) protects you from discrimination in all aspects of employment. This factsheet explains the current law based on changes since the ADA Amendments Act (ADAAA) was passed in 2008.

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 debate over what it meant to have a disability under the law. Over the next 15 years, court decisions gradually narrowed the definition of disability. This made it harder for employees with disabilities to win discrimination claims against their employers.

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 the law should focus on whether or not discrimination occurred and not on whether a person had a disability. The ADAAA rejected two Supreme Court decisions that earlier had limited the ADA's 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 working, and the additional benefits people get from working. 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, you have a qualified disability if you:

1. Have a physical or mental impairment (illness, injury or other condition) that substantially limits one or more major life activities;

2. Have a record of such an impairment;
or
3. Are 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 an employer needs to verify the need for a reasonable accommodation due to a disability that is not obvious, they are allowed to request medical documents related to the request for accommodation. For example, if you have a disability that is not visible and requires flexible leave to attend doctors' appointments, your employer can request documentation that verifies the need for that leave.

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. Someone with a broken wrist who will fully recover after six weeks would not have a disability.
- **Even if you use medications, tools, or other therapies that improve your symptoms, you still have a disability according to the ADA.** For example, if you use insulin to control your diabetes and keep your blood sugar stable, you still have a disability under the ADA, even though your symptoms are under control. However, the fact that you need ordinary eyeglasses or contact lenses does not qualify you as having a disability under the ADA.
- If you have a condition that fits the definition of disability when active, but is in remission (not active) or only happens now and then, you still have a disability under the ADA. 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's 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 person who is regarded as having a disability may file discrimination complaints against an employer for any benefit other than "reasonable accommodation." A reasonable accommodation is a change to the work place that allows an employee with a disability to do the main parts of his or her job. For example,

someone who works in a call center must be able to use a telephone to receive calls. Normally an employer must provide reasonable accommodation to a qualified employee with a disability. However, if a person is only *regarded* as having a disability, no reasonable accommodation is required.

This is a brief overview of the ADAAA and, in particular, the Equal Employment Opportunity Commission's ADAAA regulations. For more information on these changes, go to the EEOC's website at http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm.

- To file an employment disability discrimination claim, contact the EEOC at 1.800.669.4000.

To talk to someone about how or if the ADA applies to your employment situation, call your regional ADA center at 1.800.949.4232

Content was developed by Northeast ADA Center, and is based on professional consensus of ADA experts and the ADA National Network.



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