



ADA AMENDMENTS ACT FACT SHEET

Effective Beginning January 1, 2009

Why was the ADA Amendments Act (ADAAA) needed?

The Americans with Disabilities Act (ADA) of 1990 was intended to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities”. Since 1990 there have been a few U.S. Supreme Court decisions, including *Sutton v. United Air Lines* and *Toyota v. Williams*, which narrowed the definition of disability considerably, resulting in the erosion of protections for many people with disabilities. The ADAAA was created to restore the original intent of the ADA by rejecting strict interpretation of the definition of disability and stating clearly that the ADA is to provide broad coverage to protect anyone who has, or is regarded as having, a disability.

What are the Key Points of the ADAAA?

The ADAAA continues to define a person as having a disability if they have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment, or are regarded as having an impairment. The following table lists key clarifications and/or additions further provided by the ADAAA:

Aspect of Definition	Original ADA	ADA Amendments Act
Major Life Activities	Includes activities such as seeing, hearing, eating, sleeping, walking, breathing, thinking, etc.	Expands non-exhaustive list to include activities like reading, communicating, bending, and the operation of major bodily functions such as normal cell growth and those of the neurological, immune, digestive, endocrine, circulatory, and reproductive systems.
Major Life Activities	Was interpreted to refer to activities that are central to daily life only	Impairment that limits one major life activity (i.e. work) does not need to limit other activities, including those central to daily life
Major Life Activities	Was interpreted to refer only to active impairments	An impairment that is episodic, i.e. multiple sclerosis, or in remission is still a disability if it limits a major activity when active
“Substantially Limits” Major Life Activities	“Substantially limits” meant “prevents or severely restricts the individual from performing the activity”.	The EEOC and Supreme Court have incorrectly interpreted “substantially limits” to establish a greater degree of limitation that Congress had intended.

Mitigating Measures	The effects of assistive aids such as low vision devices, hearing aids, medications, mobility devices, adaptive neurological modifications, prosthetics, and assistive technology were considered when deciding if a disability existed	Disability determinations must be made without considering effects of mitigating measures, with the exception of ordinary eyeglasses. NOTE: Uncorrected vision testing is no longer acceptable to use in job hiring criteria unless the testing is job related and a function of business necessity
“Regarded as” disabled	Was applied if the impairment was seen as limiting a major life activity	An impairment does not have to be, or be seen as, limiting a major life activity for a person to be “regarded as” having a disability
“Regarded as” disabled	Was unclear whether this definition was contingent upon length or duration of impairment	Definition does not apply to impairments that are minor and that last, or are expected to last, six months or less

The Equal Employment Opportunity Commission, the legal enforcer of the ADA and ADAAA, is currently evaluating the impact of these changes on its enforcement guidelines. The following are initial thoughts and suggestions for employers/organizations and individuals/employees with disabilities to consider:

What Does This Mean For Individuals/Employees with Disabilities?

- Overall, the ADAAA will restore protections against disability discrimination to a broader range of individuals including those with mental illness, epilepsy, muscular dystrophy, cancer, diabetes, cerebral palsy and *perceived* disabilities.
- “Substantially limits” now needs to be interpreted less severely with regards to effect on a major life activity.
- Mitigating measures can no longer be considered when determining whether a person has a disability or not.

What Does This Mean For Employers?

- Organizations that have been complying with the original intent of the ADA will likely be unaffected since the ADAAA merely restores that original intent and more clearly defines disability.
- Existing policies and procedures, including written ones, should be reviewed and updated to ensure they are in compliance with the ADA and this Act, especially given that more conditions are now explicitly considered disabilities.
- Reasonable accommodations are only required to be provided to individuals who have, either currently or a record of, an impairment that substantially limits a major life activity, NOT for employees who are “regarded as” disabled.