

## ADA Amendments Act of 2008

Title I of the federal Americans with Disabilities Act (ADA) prohibits employment discrimination on the basis of disability. The ADA Amendments Act signed into law on September 25, 2008, and effective January 1, 2009, made significant changes in the law by overturning previous court decisions and directing that changes be made in the regulatory language that limited the scope of the ADA.

### ***What is a disability under the ADA?***

The Americans with Disabilities Act defines a disability as:

- a physical or mental impairment that substantially limits one or more major life activities;
- a record of such an impairment; or
- being regarded as having an impairment.

### ***What is the purpose of the 2008 amendments?***

In 2008, the U.S. Congress decided the courts and federal regulators had been too restrictive in interpreting the definition of a disability for the purposes of the ADA. The language of the 2008 amendments states that court decisions “have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect.”

### ***What changes do the 2008 amendments make to the ADA?***

The new law redefined terms used in ADA regulations and changed the standards of when ADA applies. It directs the Equal Employment Opportunity Commission (EEOC) to revise its regulations defining the term “substantially limits” to conform with the new standards outlined in the act, and it changes the definitions for the terms “major life activity” and “regarded as having an impairment.” It also establishes that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The law also reverses U.S. Supreme Court decisions that Congress cited as establishing “inappropriately high” levels of limitation for coverage under the ADA. It directs that the determination of whether an impairment substantially limits a major life activity be made without regard to the “ameliorative effects of mitigating measures.”

These items are discussed separately below.

### ***What does “mitigating measures” mean?***

The amendments direct that the determination of whether an impairment substantially limits a major life activity must be made “without regard to the ameliorative effects of mitigating measures.” Mitigating measures include items like medication; medical supplies, equipment, or appliances; mobility devices; assistive technology; low-vision devices (excluding ordinary eyeglasses or contacts); prosthetics; hearing aids or implants; oxygen therapy equipment and supplies; reasonable accommodations or auxiliary aids or services (including interpreters, readers, and taped text); or learned behavioral or adaptive neurological modifications.

***What are “major life activities”?***

In the past, major life activities included caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

The inclusion of bodily functions in the definition of major life activities was not, however, as clear-cut. Consequently, the 2008 amendments added bodily functions to the definition of major life activities and provided a nonexhaustive list of those functions including the following:

- functions of the immune system
- normal cell growth
- digestive, bowel, and bladder functions
- neurological and brain functions
- respiratory and circulatory functions
- endocrine functions
- reproductive functions

***What does “being regarded as having an impairment” mean?***

Under the act, a person is regarded as having an impairment if the person establishes that he or she has been subject to an action prohibited under the ADA as a result of an “actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.”

These protections, however, don’t apply to impairments that are “transitory and minor.” The act defines transitory impairments as those with an actual or expected duration of six months or less.

***What are reasonable accommodations and modifications?***

The ADA Amendments Act did not change the definition of reasonable accommodation but specified that those who meet the definition of impaired only under the “regarded as having an impairment” category are not entitled to accommodation.

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