

The ADA Amendments Act of 2008

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To understand what the ADAAA means, it's important to understand why the ADA needed amending in the first place. When it was passed back in 1990, the ADA had a definition of disability that was based on the definition used in the Rehabilitation Act of 1973. An individual with a disability has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having such an impairment. Congress used the same definition because it had worked well.

The Supreme Court, in 1999, started to narrow the definition of disability in unexpected ways. In a case called *Sutton v. United Air Lines*, the court said that, when you determine whether an individual has a disability under the ADA, you have to consider the effects of mitigating measures – such as corrective lenses, medications, hearing aids and prosthetic devices – when deciding an impairment is substantially limiting. The Court did one other thing in *Sutton*. It essentially overturned an old Rehab Act case, *School Bd. of Nassau County v. Arline*. *Arline* had broadly viewed the part of the definition of disability that mentions having a “record of” an impairment. The Court in *Sutton* required a more restrictive view of that part of the definition, which practically eliminated it.

In 2002, in a case called *Toyota v. Williams*, the Supreme Court focused on the word “substantially” from the definition of disability, and said that it means “considerably” or “to a large degree.” The Court also narrowed the scope of “major life activity,” stating that it must be something that was of

central importance to most people's daily lives.

Eventually, the definition of disability was narrowed to such a degree that most cases became more about whether a person met the definition of disability, rather than focusing on access or accommodation. The EEOC had regulations that defined “substantially limits” as “significantly restricts.”

The ADAAA has new rules for the definition of disability. They include:

- The definition of disability is construed in favor of broad coverage to the maximum extent permitted; and
- The term “substantially limits” is to be interpreted consistently with the ADAAA; and
- An impairment that substantially limits one major life activity need not limit other major life activities to be considered a disability; and
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and
- Mitigating measures shall not be a factor when determining whether an impairment substantially limits a major life activity. The only mitigating measures that can be considered are ordinary eyeglasses or contact lenses that fully correct visual acuity of eliminate refractive error.
- People who are regarded as being disabled are not entitled to reasonable accommodations or modifications. Previously, courts had debated whether the ADA required having to accommodate a disability that didn't actually exist.

The ADAAA is not some revolutionary new law. It simply attempts to bring the law back to what Congress intended it to be when it passed the ADA in 1990. ▲

On September 25, 2008, the ADA Amendments Act (ADAAA) was signed into law and will become effective on January 1, 2009. The bill passed the House on a vote of 402 to 17, and unanimously passed the Senate.