



Fact Sheet on the Americans with Disabilities Amendments Act

What is the Americans with Disabilities Amendments Act (ADAAA)?

The Americans with Disabilities Amendments Act is a new law. It was signed by President George W. Bush on September 25, 2008. It amends the Americans with Disabilities Act (ADA), which was signed into law on July 26, 1990.

The ADAAA restores the intent of Congress of providing “a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.”

Why amend the ADA?

Starting in 1999, a series of Supreme Court decisions, known as the Sutton trilogy, narrowed the definition of disability, and therefore who was entitled to the protections of the ADA.

Without the protection of the ADA, an employer, a state or local government service, or a place of public accommodation (restaurants, movie theaters, medical offices, etc.) could refuse to accommodate a person with a disability. For example, an employer could openly refuse to hire or discharge an employee.

When does the ADAAA go into effect? The ADAAA goes into effect January 1, 2009.

Which entities are affected?

The ADAAA applies to the same entities as the ADA—employers with fifteen or more full-time employees, state and local government services (state correctional facilities, public schools and public transportation), places of public accommodation (stadiums, restaurants, medical offices, etc.), and telecommunications.

Who is protected by the ADAAA?

The ADAAA, like the ADA, protects the same three broad categories of individuals. The ADAAA explicitly states that the definition of disability “shall be construed in favor of broad coverage.”

To qualify as an individual with a disability, a person must:

- have a physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- have a record of an impairment; or
- be regarded as having an impairment.

The ADAAA, like the ADA, also protects an individual who is associated with a person with a disability, and is discriminated against because of that relationship.

If the definition of an individual with a disability is the same in both laws, what changed?

The ADAAA overturned the Supreme Court's decisions in regards to the Court's interpretation of the phrases "substantially limits," "major life activities," and "regarded as."

Substantially Limits: The ADAAA specifically states that the determination of whether an individual is "substantially limited" in a major life activity must be made without regard to whether the individual uses mitigating measures (with the exception of ordinary eyeglasses) including "medication, medical supplies... or learned behavioral or adaptive neurological modifications." The ADAAA also overturns the Court's decision that interpreted "substantially limits" as "severely restricts."

Major Life Activities: The ADAAA specifically states that major life activities include, but are not limited to, "caring for oneself, learning, reading, concentrating, thinking, communicating, and working." The ADAAA, also adds a new category, by stating that a major life activity includes "the operation of a major bodily function," including but not limited to neurological and brain functions.

Regarded As: The ADAAA specifically states an individual meets the requirement of "being regarded as" having an impairment if the individual can demonstrate that they were discriminated against because of either an actual or perceived impairment, regardless of whether or not the impairment limits or is perceived to limit a major life activity. The ADAAA states that reasonable accommodations do not need to be provided to an individual who is regarded as having a disability.

Are there other changes that will affect persons with AD/HD and related disorders?

No, with the exception that the ADAAA contains an amendment that amends the Rehabilitation Act of 1973 to ensure that entities such as "public schools, institutions of higher education, childcare facilities, and other entities receiving federal funds" operate under "one consistent standard" because these entities are required to comply with both laws.

All the other provisions in the ADA remain in effect. For example, an individual must still be able to perform the essential functions of the job with or without reasonable accommodations, and the request for reasonable accommodations cannot impose an undue hardship on the employer. A student in postsecondary education must still be able to meet the essential academic requirements without fundamentally altering the program.

Where can I find more information on the changes to the ADA?

See CHADD's Public Policy page online at www.chadd.org for more information or visit www.adaarchives.org.