

ADA Amendments Act of 2008 Summary and Resources

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Summary of the Law

On September 25, 2008, the ADA Amendments Act (ADAAA) was signed into law. It became effective on January 1, 2009. The U.S. Senate and the U.S. House of Representatives both unanimously passed the ADAAA.

The ADAAA focuses on the discrimination at issue instead of the individual's disability. It makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of Equal Employment Opportunity Commission's (EEOC) ADA regulations. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way that the statutory terms should be interpreted. Most significantly, the ADAAA:

- Directs EEOC to revise the portion of its regulations that defines the term "substantially limits";
- Expands the definition of "major life activities" by including two non-exhaustive lists:

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 Americans with Disabilities Act***

1. The first list includes many activities that the EEOC has recognized (e.g., walking) as well as activities that EEOC has not specifically recognized (e.g., reading, bending, and communicating);
 2. The second list includes major bodily functions (e.g., "functions of the immune system, normal cell growth, digestive, bowel, bladder, respiratory, neurological, brain, circulatory, endocrine, and reproductive functions");
- States that mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability;
 - Clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
 - Provides that an individual subjected to an action prohibited by the ADA (e.g., failure to hire) because of an actual or perceived impairment will meet the "regarded as" definition of disability, unless the impairment is transitory and minor;
 - Provides that individuals covered only under the "regarded as" prong are not entitled to reasonable accommodation; and
 - Emphasizes that the definition of "disability" should be interpreted broadly.

Source: [EEOC Notice Concerning Americans with Disabilities Act Amendments Act of 2008](http://www.eeoc.gov/ada/amendments_notice.html) www.eeoc.gov/ada/amendments_notice.html

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Regulations Update

On December 11, 2008, the EEOC met to discuss the new regulations that will implement the Americans with Disabilities Act Amendments Act. Naomi Churchill Earp, EEOC Chair, announced that she had decided to follow a more traditional "Notice of Proposed Rulemaking" process to allow the public to have an opportunity to comment on the proposed regulations before they take effect. She cited concerns raised by members of the disability community that the issuance of an "Interim Final Rule" would take effect without any opportunity for the community to review and provide comments. The Commission also discussed whether the current proposed regulations were ready to be circulated for comment. Two of the four Commissioners (Stuart Ishimaru and Christine Griffin) said that they believe the proposed regulations need more work and voted against issuing them as a proposed rule at this time.

Source: [Justice for All Blog](http://jfactivist.typepad.com/jfactivist/2008/12/victory-eeoc-postpones-adaaa-regulations.html)

<http://jfactivist.typepad.com/jfactivist/2008/12/victory-eeoc-postpones-adaaa-regulations.html>

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Resources

Text of the Law

[Text of the Law: ADA Amendments Act of 2008 \(PDF\)](#)

www.law.georgetown.edu/archiveada/documents/ADAAACR9.17.08.pdf

EEOC Notice

[Equal Employment Opportunity Commission Statement \(EEOC\) - ADA Amendments Act of 2008](#)

www.eeoc.gov/ada/amendments_notice.html

Legal Briefs and Fact Sheets

[Comparison of ADA and ADAAA \(Word\)](#)

www.aapd.com/AAPDRedesign/Advocacy/Comparison%20of%20ADA%20and%20ADAAA10-17-08%20final.doc

This document from the American Association of People with Disabilities (AAPD) is in a table format.

[Legal Bulletin: ADA Amendments Act of 2008](#)

(Developed by the Southwest ADA Center)

www.dlrp.org/html/publications/ebulletins/legal/2008/oct2008.html

[The ADA Amendments Act of 2008 - Accommodation and Compliance Series Fact Sheet](#)

(Developed by the Job Accommodation Network)

www.jan.wvu.edu/bulletins/adaaa1.htm

Historical Documents

[ArchiveADA: The Path to Equality – ADA Amendments Act of 2008](#)

www.law.georgetown.edu/archiveada/#ADAAA

[Article: ADA Amendments Act of 2008 \(PDF file\)](#)

www.law.georgetown.edu/archiveada/documents/ADAarticlefinalforwebsite_001.pdf

This article provides an overview and history of the ADA and ADAAA.

[National Council on Disability \(NCD\) Policy Brief Series: Righting the ADA Papers](#)

www.ncd.gov/newsroom/publications/2003/policybrief.htm

Distance Learning Transcripts

[Disability Policy Forum: The ADA Amendments Act: Implementation Issues and What's Next? \(December 17, 2008\)](#)

(Sponsored by Cornell University's Employment Policy RRTC in collaboration with the American Association of People with Disabilities)

www.ilr.cornell.edu/edi/p-eprrtc-policyforum.cfm#2008_12

[ADA Audio Conference Transcript: ADA Restoration Act vs. ADA Amendments Act August 12, 2008](#)

www.ada-audio.org/Archives/?type=transcript&id=2008-08-12

[Disability Law Lowdown Podcast: Show 18 - ADA Amendments Act](#)

<http://dll.ada-podcasts.com/shownotes/DLLPod18.php>

ADAAA Websites

[ADA Amendments Act of 2008 Website](#)

www.adabill.com

[ADA Restoration Page from the Consortium for Citizens with Disabilities Rights Task Force](#)

www.c-c-d.org/task_forces/rights/tf-rights-ada.htm

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