

PUBLICATION

EEOC Announces Final Regulations for the ADA Amendments Act

March 24, 2011

On March 24, 2011, the U.S. Equal Employment Opportunity Commission (EEOC) published its final regulations implementing the ADA Amendments Act (ADAAA). The regulations, which may be viewed on the Federal Register website at www.ofr.gov, are designed to simplify the determination of who has a “disability” under the newly-revised law. The EEOC has also released two Question-and-Answer documents about the regulations to aid employers in understanding the law and new regulations at www.eeoc.gov/laws/statutes/adaaa_info.cfm.

The ADAAA, which went into effect on Jan. 1, 2009, overturned several Supreme Court decisions that narrowly interpreted the definition of “disability.” The ADAAA broadened that definition, making it easier for an individual seeking statutory protection to establish that he or she has a disability within the meaning of the ADA. For example, the regulations now provide that an impairment need not prevent or severely or significantly restrict performance of a major life activity to be considered a disability. The new regulations also provide that, with one exception (ordinary eyeglasses or contact lenses), “mitigating measures,” such as medication and assistive devices like hearing aids, must not be considered when determining whether someone has a disability. Furthermore, impairments that are episodic (such as epilepsy) or in remission (such as cancer) now constitute disabilities if they would be substantially limiting when active.

The regulations further clarify that the term “major life activities” includes “major bodily functions,” such as functions of the immune system, normal cell growth, and brain, neurological, and endocrine functions. They also include examples of impairments that should easily be concluded to be disabilities, such as HIV infection, diabetes, epilepsy, and bipolar disorder.

The regulations also make it easier for individuals to establish coverage under the “regarded as” prong of the definition of “disability.” Establishing such coverage under the new law changes the focus to how the employee was treated, rather than on what an employer believes about the nature of the person's impairment.

How We Can Help

If you have questions about the ADAAA or any other EEOC regulations, please feel free to reach out to any of our nearly 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; and Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee.