



# Americans With Disabilities Act

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- BIG NEWS!
- The Americans With Disabilities Act Amendments Act of 2008 (ADAAA)
- President signed September 25, 2008
- Effective January 1, 2009
- Sweeping changes to definitions and statutory interpretation
- Rejection of several Supreme Court holdings



# ADA Amendments Act of 2008

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- Retains 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
- Provides for numerous changes with respect to interpretation of statutory terms



# ADA Amendments Act of 2008

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- Overturns four U.S. Supreme Court decisions Congress maintained had misconstrued the ADA and had restricted its coverage
  - ✓ ***Sutton v. United Air Lines Inc.***, 527 U.S. 184 (1999)
  - ✓ ***Murphy v. United Parcel Service Inc.***, 527 U.S. 516 (1999)
  - ✓ ***Albertson's Inc. v. Kirkingburg***, 527 U.S. 555 (1999)
  - ✓ ***Toyota Motor Mfg. Co. of Ky. v. Williams***, 534 U.S. 184 (2002)



# ADA Amendments Act of 2008

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- ***Sutton, Murphy*** and ***Albertson's*** held that “mitigating measures” must be considered when determining whether an individual is disabled under the ADA
  - ✓ impact was to exclude many individuals from coverage, who, without mitigating measures, would be substantially limited in a major life activity
- ***Toyota*** resulted in a higher standard for proving that an individual is sufficiently “substantially limited” in a “major life activity” to be disabled within the meaning of the ADA



# ADA Amendments Act of 2008

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- The ADAAA specifically rejects the four Supreme Court holdings and provides that “the ameliorative effects of mitigating measures” shall not be considered in determining whether an impairment substantially limits a major life activity
- The only exception provided in the ADAAA is for “ordinary eyeglasses or contact lenses” that are “intended to fully correct visual acuity or eliminate refractive error”



# ADA Amendments Act of 2008

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- “Mitigating measures” are measures that assist individuals to control or cope with impairments, and specifically include
  - ✓ medication, medical supplies, equipment or appliances, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy equipment
  - ✓ use of assistive technology
  - ✓ reasonable accommodations or auxiliary aids or services
  - ✓ learned behavioral or adaptive neurological modifications



# ADA Amendments Act of 2008

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- Another major change is expansion of the definition of “major life activities” by including two non-exhaustive lists:
  - ✓ numerous *activities*, such as walking, bending, reading, communicating
  - ✓ *major bodily functions*, such as “functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions”



# ADA Amendments Act of 2008

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- Other major changes include
  - ✓ clarification that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active
  - ✓ broadening of the “regarded as” definition of disability
  - ✓ direction to the EEOC to revise its regulations relevant to the term, “substantially limits”
  - ✓ broadening of the protected class



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- Results will include
  - ✓ expanding the class of covered individuals by lowering the coverage threshold
  - ✓ protecting individuals who, because they successfully managed their disabilities, were denied ADA protection in the past
  - ✓ shifting focus away from threshold coverage issues to examining whether an otherwise qualified individual with a disability has experienced discrimination