

Disabilities and Impairment Defined

The Americans with Disabilities Act of 1990 (ADA) gives protection to every individual with a physical or mental disability as well as to any individual who is perceived as having a disability. The goal of the ADA is to allow people with disabilities to compete equally in the workplace. To determine whether an individual is afforded protection under the ADA, a review of some definitions found within the text of the ADA is necessary.

The ADA defines disability as:

- (1) A *physical or mental impairment* that *substantially limits* one or more of the *major life activities* such as walking, seeing, and hearing, of an individual;
- (2) Having a *record of such an impairment*; or
- (3) being *regarded as having such an impairment*

Within this definition are key words and phrases that must be further defined to fully understand the coverage of the ADA.

“physical or mental impairment”

Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

- neurological (brain, palsy)
- speech organs
- musculoskeletal (dystrophy, multiple sclerosis)
- cardiovascular (heart)
- hemic (AIDS, sickle cell)
- special sense organs (hearing, smell)
- lymphatic (lupus)
- respiratory (asbestosis, asthma)
- skin (scars, burns)
- endocrine (hormonal)

This definition does not include physical characteristics or conditions like left-handedness, pregnancy, or advanced age. Common personality traits such as a quick temper or poor judgement are also not included in the definition. Temporary medical conditions such as, the flu and appendicitis are not considered impairments that qualify as disabilities. Likewise, accents, and race are not impairments under the law.

An individual who never learned to read is not considered impaired under the law. However, an individual who cannot read because of dyslexia does have an impairment and is protected by the ADA.

“substantially limits”*

- (1) The term means:

- (i) Unable to perform a major life activity that the average person in the general population can perform; or
- (ii) Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity.

- (2) The following factors should be considered in determining whether an individual is substantially limited in a major life activity:

- (i) the nature and severity of the impairment;
- (ii) the duration or expected duration of the impairment; and
- (iii) the permanent or long-term impact, or the expected permanent or long-term impact of or resulting from the impairment.

For example, diabetes and HIV are substantially limiting impairments by their nature, so they are considered disabilities under the law. More importantly, either because of its actual effect on the individual with HIV or because of the reactions of other people to individuals with HIV or their care givers, such individuals may be discriminated against.

**There are other definitions within the text of the ADA that provide further clarification of these terms and others.*

"major life activities"

This means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

For example, a person who is an amputee may be substantially limited in the major life activity of walking.

On the other hand, a person with a minor impairment, such as an infected finger, is not impaired in a major life activity. A person who can walk for 10 miles continuously is not substantially limited in walking merely because, on the 11th mile he/she begins to experience pain. Most people would not be able to walk 11 miles without experiencing some discomfort.

"record of such impairment"

This means: the individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activity.

This provision is included in the definition of a disability to protect individuals who have recovered from a physical or mental impairment that substantially limited them in a major life activity. An individual with a past impairment cannot be discriminated against on the basis of that past impairment.

Examples are persons with histories of mental or emotional illness, heart disease, cancer, or past drug or alcohol abuse.

"is regarded as having such an impairment"

This means:

- (1) has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as having such impairments.
- (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment.
- (3) has none of the impairments defined in (1) or (2) but is treated by an employer as having a substantially limiting impairment.

The Supreme Court has ruled that although an individual may not have an impairment that does not in fact substantially limit a major life activity (person with severe facial burns), the reactions of others may prove just as disabling.

The law specifically bars discrimination against an individual because of a relationship with a disabled person. Protection under the law is not limited to family ties with a disabled person. For example, an employer cannot discriminate against an employee who does volunteer work with AIDS patients just because he fears the employee may contract the disease. Nor can the employer refuse to hire a qualified applicant without a disability because the employer believes that the employee will frequently miss work or leave work early to care for a disabled person.

Remember:
The ADA provides protection to individuals who are disabled or who are perceived to be disabled.
If you feel you have been discriminated because of an actual disability or perception by other that you are disabled, contact the Federal Equal Employment Opportunity Commission.