



Basic Employee Relations Course

Disability

Let's take a look at "disability" and its relationship to Equal Employment Opportunity and Reasonable Accommodation. Our task is to define "disability" in relation to the Rehabilitation Act, Americans with Disabilities Act, and the Americans with Disabilities Act Amendments Act. "Disability" has been defined to mean a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. It is a long-term (lasts 1 year or more) or permanent impairment. There are different definitions for a disability for disability retirement purposes and another for an Office of Workers' Compensation Programs (OWCP) claim.

Let's take a closer look at the definition for "disability" as it relates to reasonable accommodation and examine each part of this definition: Physical Disability, Mental Disability, and Major Life Activities.

The first part of this definition is a physical or mental impairment. The regulatory definition of a physical impairment which can be found at [29 CFR 1630.2\(h\)](#) is any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin and endocrine.

The regulatory definition of a mental impairment found in [29 CFR 1630.2\(h\)](#) is any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

The first way to show a disability is if the employee has a history of such impairment or is classified or misclassified as having a mental or physical impairment that substantially limits a major life activity.

A second way to show a disability is to be regarded as suffering from such a disability. This could be an expanding area because we may regard and treat individuals as disabled although they would not technically be substantially limited in a major life activity.

Another way of referring to this category is "stereotyping" an individual as disabled. In one case, an employer's refusal to reinstate an employee until the individual was 100% healed was regarded as indicating the employer regarded the employee as suffering from a disability.

The regulations clarify, however, that an individual must be covered under the first prong ("actual disability") or second prong ("record of disability") in order to qualify for a reasonable accommodation.

Under the ADAAA, "major life activities" is expanded to include "major bodily functions." The statute contains a non-exhaustive list of "major life activities" that adds additional activities to



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those currently listed in the ADA and Section 503 regulations, and a non-exhaustive list of "major bodily functions." Specifically, the ADAAA provides that:

- Major Life Activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- Major Bodily Functions include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.