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The ADA Amendments Act: Implementation and What's Next?

A Public Policy Forum

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Rehabilitation Research and Training Center on Employment Policy for Persons with Disabilities

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Collaborating Partners

- **Employment and Disability Institute**
ILR School, Ithaca, NY
- **Dept. of Policy Analysis and Management**
College of Human Ecology, Ithaca, New York
- **Mathematica Policy Research, Inc.**
Princeton, NJ, Washington, DC, and Cambridge, MA
- **American Association of People with Disabilities**
Washington, DC
- **Rutgers University, School of Management and Labor Relations, Program for Disability Research**
New Brunswick, NJ



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Upcoming Policy Forums

- *2009*



Welcome and Introductions

- **Andrew J. Imparato, American Association of People with Disabilities**

Speakers

- **Christine M. Griffin, Commissioner, Equal Employment Opportunity Commission**
- **Jennifer Mathis, Esq., Deputy Legal Director, Judge David L. Bazelon Center for Mental Health Law**
- **Jenifer Simpson, Sr. Director Telecommunications & Technology Policy, American Association of People with Disabilities**
- **Day Al-Mohamed, Sr. Legislative and Federal Affairs Officer, American Psychological Association**



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Christine M. Griffin, Commissioner, *Equal Employment Opportunity Commission*





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Jennifer Mathis, Esq., Deputy Legal Director, *Judge David L. Bazelon Center for Mental Health Law*



The ADA Amendments Act
Summary of Key Provisions



- The ADAAA provides that the ameliorative effects of mitigating measures should not be considered in determining whether an individual has an impairment that substantially limits a major life activity.
- An exception is made for “ordinary eyeglasses or contact lenses,” which may be taken into account.



- The ADAAA includes a non-exhaustive list of major life activities, such as seeing, hearing, eating, sleeping, walking, learning and concentrating.
- Major life activities also include the operation of “major bodily functions,” such as the immune system, normal cell growth, and the endocrine system.



- The ADAAA clarifies that impairments that are episodic or in remission are considered disabilities if the impairment would substantially limit a major life activity when the condition is considered in its active state.



- The ADAAA rejects the Supreme Court’s interpretation of “substantially limits” by providing a rule of construction stating that the term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADAAA.
- Findings and purposes make clear that Congress intended to apply a less demanding standard than that applied by the courts, and to cover a broad range of individuals.
- A rule of construction provides that the definition of disability shall be construed in favor of broad coverage of individuals, to the maximum extent permitted by the terms of the ADA.



- The ADAAA provides that an individual can establish coverage under the “regarded as” prong by showing that he or she was subjected to an action prohibited by the ADA based on an actual or perceived impairment, regardless of whether the impairment limits a major life activity.
- Transitory and minor impairments are excluded from this coverage, and employers and other covered entities under the ADA have no duty to provide a reasonable accommodation or modification to individuals who fall solely under the “regarded as” prong.



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Jenifer Simpson, Sr. Director Telecommunications & Technology Police, *American Association of People with Disabilities*

What's Next?

Ensuring electronic communications is accessible to and usable by people with disabilities





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Relationship to ADA

Employment

Education

Title IV update

Anywhere, anytime

--modernize the Communications Act for people with disabilities





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Proposal for new legislation

-Coalition of Organizations for Accessible Technology (COAT)

221 affiliates, 43 states

-The 21st Century Communications and Video Accessibility Act (H.R. 6320)



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Summary of H.R. 6320

**Amends and updates existing sections in
Communications Act**

Title I Communications

Title II Video Programming



**Summary of HR 6320
Title I Communications**

Requires access to phone-type equipment & services used over the Internet.

Add improved accountability & enforcement measures for accessibility, including a clearinghouse & reporting obligations by providers and manufacturers.

Requires telephone products used with the Internet to be hearing aid compatible.

Allows use of Lifeline and Link-up universal service funds (USF) for broadband services.

Allocates up to \$10 million/year from USF for phone equipment used by people who are deaf-blind.

Clarifies scope of relay services to include calls between and among people with disabilities

Requires Internet-based service providers to contribute to the Interstate Relay Fund.



Summary of HR 6320 Title II Video Programming

- Requires decoder circuitry in all video programming devices.**
- Extends closed captioning obligations to television-type video programming distributed over the Internet: covers programming that would otherwise be covered by the FCC's captioning rules, not user-generated content.**
- Requires easy access to TV closed captions via remote control, on-screen menus, audio outputs or assistive technology.**
- Requires easy access by blind people to television controls and program selection menus.**
- Restores video description rules**
- Requires access to televised emergency programming for people who are blind or have low vision.**



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Status and Outlook in 2009

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Coalition of Organizations for Accessible Technology (COAT)

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