

## **The ADA definition of disability**

The Americans with Disabilities Act (ADA) protects people with disabilities from unfair treatment. Protected areas include:

- State and local government services
- Places of public accommodation
- Employment
- Telecommunications
- Transportation

The ADA covers employers with 15 or more employees. This includes state and local governments. It also applies to employment agencies and labor unions.

## **Who does the ADA protect?**

A person with a disability is someone who:

- Has a physical or mental impairment that greatly limits one or more major life activities.
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

An impairment is measured when the condition is most severe. If you are only sometimes impaired, the ADA will look at when your symptoms show the most.

There are two essential parts:

- You must have a physical or mental impairment; and
- The impairment must largely keep you from doing major life activities.

## **Physical or mental impairments**

To be disabled under the ADA, you must have a physical or mental impairment. Not everything that keeps you from doing activities is an impairment. But, the ADA uses a broad definition.

A physical impairment is any medical disorder, condition, or loss that affects the body. These can be:

- Neurological
- Musculoskeletal

- Special sense organs
- Respiratory (including speech organs)
- Cardiovascular
- Reproductive
- Digestive
- Genitourinary
- Immune
- Circulatory
- Hemic
- Lymphatic
- Skin
- Endocrine

A mental impairment is any mental or cognitive disorder. This includes:

- Intellectual disability,
- Organic brain syndrome,
- Mental illness, and
- Some learning disorders.

### **What qualifies for the ADA?**

Physical or mental impairments covered by the ADA include:

- AIDS, and its symptoms
- Alcoholism
- Asthma
- Blindness or other visual impairments
- Cancer
- Cerebral palsy
- Depression
- Diabetes
- Epilepsy
- Hearing or speech impairments
- Heart Disease
- Migraine Headaches

- Multiple sclerosis
- Muscular dystrophy
- Orthopedic impairments
- Paralysis
- Complications from Pregnancy
- Thyroid gland disorders
- Tuberculosis
- Loss of body parts

Some short-term impairments with little or no lasting effects do not qualify. The ADA does not protect against unfair treatment based on lifestyle.

Conditions that are not impairments include:

- Common cold or the flu
- Sprained joint
- Minor and non-chronic gastrointestinal disorders
- Broken bone that is expected to heal completely
- Compulsive gambling
- Pregnancy (some related impairments may qualify. For more information see Pregnancy Discrimination)
- Old age
- Lack of education
- Poor judgment
- Bisexuality or homosexuality

### **Does drug addiction qualify?**

Casual drug use is not an impairment. This applies to unlawful drugs and to prescription drug use. There are few situations where drug addiction qualifies under the ADA. One is if someone has a history of addiction or is thought to be addicted to drugs. The addiction could qualify as an impairment. It is not an impairment if someone has a history of addiction and is now using illegal drugs.

### **Major life activities**

Major life activities include any major bodily function. This includes use of your:

- Immune system,
- Bowels,
- Bladder,
- Digestive,
- Endocrine,
- Reproductive functions, etc.

Basic daily functions also count as major life activities. This includes eating, sleeping, standing, walking, speaking, bathing, dressing, shaving, and preparing a meal. It also includes problems with learning, reading, thinking, interacting, and working.

The following are not major life activities:

- Caring for others
- Driving
- Ability to have a relationship
- Grocery shopping

### **Substantial limit**

The impairment must substantially limit you from doing major life activities. The ADA defines 'substantially limits' broadly.

Your impairment does not have to last for a certain amount of time. A condition lasting for less than six months may qualify. It depends on the facts of your case. There is no need to go through a lot of medical testing to gather proof. Use all available evidence to show that your condition keeps you from doing major life activities.

Some examples include:

- A person who is paralyzed from the waist down. Their limited life activity is walking.
- A person who is blind. Their limited life activity is seeing.
- A person with a developmental disability. Their limited major life activity may be learning.

If your symptoms come and go, you may still have an impairment. It must largely keep you from doing a major life activity when it is active. Impairments like that include:

Epilepsy, asthma, diabetes, major depression, bipolar, etc. Cancer that is in remission is an impairment if it may return.

### **Factors to look at in determining if an impairment is substantially limiting**

The set of factors depends on each case. Common factors are:

- The difficulty, effort, or time it takes you to perform a major life activity,
- The pain you experience, and
- The way the impairment affects how a major bodily function operates.

### **"Working" as a major life activity**

The ADA added working to the list of major life activities. An impairment can keep someone from doing some part of a job. But it might not limit any other major life activity. In this case, the person may be substantially limited in working.

Decisions about working disability should look at how difficult it is to perform a broad class of jobs. A "class" of work refers to the nature of the work. This could be commercial truck driving or assembly line jobs. "Class" also refers to job-related requirements. This includes jobs that require a lot of walking, standing, or heavy lifting. You can't say you are greatly limited just because you can't do one specific job.

Examples:

- A teacher's paranoia restricted her ability to teach children with disabilities. But it did not restrict her ability to work as a teacher.
- A woman with a vision impairment was not able to be a global pilot. But, she was still able to work as a regional pilot.

**Corrective and mitigating measures** take away or lessen the symptoms of an impairment. These include medicines and assistive devices. Examples are eyeglasses, prosthetic limbs, and wheelchairs.

Examples include:

- Medication

- Medical equipment and devices
- Prosthetic limbs
- Low vision devices that magnify an image
- Hearing aids
- Mobility devices
- Oxygen therapy equipment
- Use of assistive technology
- Reasonable accommodations
- Psychotherapy
- Behavioral therapy
- Physical therapy

Corrective measures do not disqualify you from the ADA. Focus on how much you were limited before using the corrective measure. Look at what would happen if you stopped using a corrective measure.

There is an exception for correctable poor eyesight. It isn't a disability if you wear normal glasses to correct your vision. Some mitigating measures have negative side effects. Negative side effects can be considered in determining whether you have an impairment.

Examples:

- High blood pressure medication may cause depression a dry I cough that doesn't go away. Such side effects may help decide whether a person is greatly limited.
- A person with a mental impairment can be disabled under the ADA. This happens if you consider the negative side effects of anti-psychotic drugs. An example is painful seizures.

Usually, it is needless to look at the negative effects. The impairment qualifies if someone is greatly limited without treatment.

## Other ways to be considered as having a disability

### A record or history of disability

The ADA may consider you to have a disability despite no substantially limiting impairment. This can occur if you have a record of a substantially limiting impairment.

This means that either:

- You do not have a substantially limiting impairment now, but you had one in the past, or
- Someone wrongly classified you as having such impairment.

The ADA wants to prevent unfair treatment because of a history of a condition. You are covered even if your medical records show you recovered from a disability. Even if you barely had the condition, the ADA applies if it's on your records.

You can prove unfair treatment under this section. You must show that your employer or school relied on the record indicating your impairment.

Examples:

- You have recovered enough to perform all essential functions of the job. But an employer refuse to hire you due to your history of mental illness.
- You were mistakenly diagnosed with HIV. A dentist refuses to treat you because of this wrong diagnosis.

### Regarded as having an impairment

Someone might believe you have a disability, even if you do not. They may treat you unfairly based on any impairment they believe you have. In this situation, you are considered disabled. This is true whether you have a impairment or not.

Anyone may challenge a disability claim. They must believe the impairment is both temporary and minor. A temporary impairment has an actual or expected duration of 6 months or less.

**Note:** If you are only covered under this "regarded as" section, you cannot get reasonable accommodation. You may be considered disabled because you are

denied a job, service, or benefit. This is due to fears and stereotypes about disabilities.

Examples:

- An employee has controlled high blood pressure. This is not substantially limiting. His employer fears the employee will suffer a heart attack. So, he reassigns the employee.
- A person with a severe burn or scar does not have an impairment. She may face unfair treatment because people assume she does.

For full language and policy around the Americans with Disabilities Act and the summarized list of information above, check out [Americans with Disabilities Act of 1990, AS AMENDED with ADA Amendments Act of 2008](#).

*Additional information was sourced from [Disabilities recognized under the ADA | Illinois Legal Aid Online](#), and [What is the definition of disability under the ADA? | ADA National Network \(adata.org\)](#).*





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