



**Maria F. Manuel**  
**Onebane Law Firm**  
**P. O. Box 3507**  
**Lafayette, Louisiana 70502**  
**337-237-2660**  
[manuelm@onebane.com](mailto:manuelm@onebane.com)  
[www.onebane.com](http://www.onebane.com)

### **Final Regulations Issued under the ADAAA**

On March 25, 2011, the Equal Employment Opportunity Commission issued regulations implementing the Americans with Disabilities Act Amendments Act (ADAAA). These regulations go into effect on May 24, 2011. The most important thing that employers need to know is that the ADAAA and the EEOC regulations greatly expand the number of employees who will be considered “disabled” and who are, therefore, protected by the law.

An employee can be covered under the ADAAA in three ways: (1) as a person who has a physical or mental impairment that substantially limits a major life activity; (2) as a person who has a record of such an impairment; (3) or as a person regarded as having such an impairment.

The regulations emphasize that determining whether an impairment substantially limits a major life activity is to be “broadly construed in favor of expansive coverage” and is not “meant to be a demanding standard.” Although determining whether someone has an actual disability under the law is still an individualized assessment, it is a “lower” standard than what was in effect prior to the ADAAA, and the regulations include a list of major life activities and conditions that will often meet the necessary standards. In addition, employers should remember that they can no longer consider how mitigating measures affect a medical impairment. For example, if diabetes would substantially limit the functioning of a person’s endocrine system if untreated, an employer cannot argue that the use of insulin or other medical treatment prevents the person from being “disabled” under the law. The results of this new broad definition are that more employees will be entitled to accommodations and more employees will be able to get past the minimum showing to proceed with a disability discrimination lawsuit in court.

Employers should also pay attention to changes made to the definition of an employee who is “regarded as” disabled. The ADAAA and the regulations make it easier to show that an employer regarded an employee as disabled by stating that an employee can be regarded as disabled even if the employer did not perceive that the employee’s medical impairment is one

that would substantially limit a major life activity. In other words, all an employee has to show to proceed with a claim that he/she was regarded as disabled is that (1) the employer perceived that the employee had a physical or mental impairment and (2) the employer took actions prohibited under the ADAAA based on this perception.

Although these new expanded definitions will make it easier for employees to proceed with claims and be eligible for reasonable accommodations, employers still have some defenses if they are prepared. The focus for the EEOC and courts will now be on whether discriminatory conduct occurred, and the focus for employers should be on training managers and supervisors in being able to respond to employees based on these new standards.