

# What the Supreme Court taketh away, Congress returneth

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Congress and President Bush recently passed (September 25, 2008) the “ADA Amendments Act of 2008,” which will soon be known as the “ADAAA.” The Act restores rights to employees which had been taken away by the Supreme Court in a series of decisions from 1999 through 2005. In effect, Congress took the Supreme Court and the EEOC to the woodshed for its past decisions and findings; specifically stating:

“(1) In enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;

(2) In enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) While Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) The holdings of the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

(5) The holding of the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) As a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

(7) In particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), interpreted the term “substantially limits” to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term ‘substantially limits’ as ‘significantly restricted’ are inconsistent with congressional intent, by expressing too high a standard.”

What does this all mean? The purpose of Congress in passing this Act was to provide “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA. By directly addressing the U.S. Supreme Court cases and by broadening the definitions of who a person is with a disability, Congress has essentially asked the Courts to wipe away 10 years of bad decisions and broaden the protection of the Americans with Disabilities Act to

include more people. The Supreme Court in one case had held the ADA, when it was first passed in 1990 by Congress, was originally only meant to apply to about 400,000 people in the United States.

For school employees it means not only are more employees covered under the protection of the ADA, but it means school districts will have to pause and provide more meaningful input into the requests for accommodation by employees – employees who in the past have wanted to continue working but needed a little help in getting the job done.

If you have questions about ADA issues, contact your regional Advocacy Specialist.