

DOJ Issues Final Rule on ADA Amendments

The U.S. Department of Justice (DOJ) has issued a final rule to amend its Americans with Disabilities Act (ADA) regulations in order to incorporate the statutory changes to the ADA, which were set forth in the ADA Amendments Act of 2008 and took effect on January 1, 2009.

The DOJ is making several major revisions to the meaning and interpretation of the term *disability*, which is contained in the Title II and Title III ADA regulations, in order to implement the ADA Amendments Act. The revised language clarifies that the term *disability* shall be interpreted broadly and applied without extensive analysis. It is intended to make it easier for an individual to establish that he or she has a disability. The rule takes effect on October 11, 2016.

In addition to requiring the definition of *disability* to be broadly construed, the final regulations:

- expand the definition of "major life activities" by providing a non-exhaustive list of major life activities that specifically includes the operation of major bodily functions. Noteworthy for speech-language pathologists, is that "writing" was added as an example of a major life activity. Research supports the interrelationships across the language processes of listening, speaking, reading, and writing.
- add rules of construction to be applied when determining whether an impairment substantially limits a major life activity, such as:
 - the term "substantially limits" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA; and
 - an impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population.

Background

In response to earlier Supreme Court decisions that significantly narrowed the application of the definition of *disability* under the ADA, Congress enacted the ADA Amendments Act to restore the understanding that the definition of *disability* shall be broadly construed and applied without extensive analysis. This rule incorporates the ADA Amendments Act's changes to Titles II (nondiscrimination in state and local government services) and III (nondiscrimination by public accommodations and commercial facilities) of the ADA into the DOJ's ADA regulations to set forth the proper meaning and interpretation of the definition of *disability*, and to provide additional guidance on how to apply those changes.

Resources

For more information on the final rule, please see the [Federal Register](#) [PDF], Vol. 81, No. 155, August 11, 2016, or contact Catherine D. Clarke, ASHA's director of education and regulatory advocacy, at cclarke@asha.org or 800-498-2071, ext. 5611.