

Proposed ADA Regulations Will Be Issued This Week

The EEOC has announced that it expects to publish the new proposed Americans' with Disabilities Act regulations this week. A 60-day public comment period will follow publication, during which time anyone can share with the EEOC concerns (or praise) regarding the proposed regulations. The EEOC will consider those comments to determine whether changes should be made to the regulations prior to final adoption.

In anticipation of the proposed regulations, the EEOC has provided a document entitled, *Questions and Answers on the Notice of Proposed Rulemaking for the ADA Amendments Act of 2008*. You can review a copy of the Q & A at http://www.eeoc.gov/policy/docs/qanda_adaaa_nprm.html.

If you handle ADA-related matters, you should review the Q & A which provides an overview of the recent amendments to the ADA. It also underscores how the ADA is expanding. By way of example, in Q & A # 21, the EEOC contends, "An employer who does not hire someone because of a facial tic has regarded the individual as having a disability even if the employer does not know that the tic is caused by Tourette's Syndrome." That almost certainly would not have been the case under the pre-amendment ADA, and it points out the danger of relying on past experience with the ADA when making employment decisions.

We will forward a link to the new proposed regulations after they are published.

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