



## Virginia Workplace Law

### ADA Final Regs In Effect

By: Karen Elliott. *Tuesday, May 24th, 2011*

Today is the day the [final regulations](#) governing the [Americans with Disabilities Act](#), as amended (ADAA), became effective. Much has been written heralding these new regulations which provide definition to the [Act's amendments](#), which were effective over two years ago.

The media, including blogs, have largely focused on how the new regulations didn't really change much, which is true. So from a media perspective, this "effective date" has largely gone unnoticed. This is an unfortunate message because this assumes that management has already been instituting the major changes demanded by the 2008 Amendments that are now "old" news. In my experience, businesses still do not understand those changes. Do you? If you can't answer "yes" to the following questions, you still have some work to do:

1. Do you have a detailed job description noting the essential functions of each job?
2. Have you instructed and trained all of your managers to report to human resources when employees state they are not performing or underperforming due to a health situation?
3. Do you know that when you are given information by an employee that they are not performing due to a health-related reason that you are on notice that you must now engage in the interactive process to determine if a) they are disabled and b) if a reasonable accommodation is in order?
4. Did you know that the law now treats most significant health-related issues as a "disability." In other words, employers are expected to work with their employees if they have significant health issues to determine if there is a way to keep them employed.
5. Did you know that if you engage in a good faith effort to reasonably accommodate an employee that the law forecloses the award of punitive damages?

If you need any assistance with turning your "no" into "yes," please contact a [Virginia Employment Attorney](#).

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