



HR CORNER

FEES & BURGESS, P.C.



Volume 7, Issue 4

April 2011

EEOC Issues Final ADAAA Regulations

On March 25, 2011, the Equal Employment Opportunity Commission (EEOC) published its final regulations interpreting the Americans with Disabilities Amendments Act (ADAAA). These regulations clarify and expand certain employee protections in the ADAAA. A summary of the major changes in the new regulations follows.

First, the EEOC expressly states that the “primary purpose of the ADAAA is to make it easier for people with disabilities to obtain protections under the ADA.” Accordingly, these regulations construe the ADAAA broadly in favor of employee protections. Previous interpretations of the original Americans with Disabilities Act allowed employers to focus on whether an employee had a covered disability. With the EEOC’s new interpretation of the ADAAA, this focus will shift away from whether an employee is disabled to whether the employer has complied with its non-discrimination obligations.

Second, unlike the proposed regulations, the final version includes nine “rules of construction” to determine whether an impairment “substantially limits” a major life activity of an employee, such that the impairment constitutes a covered disability under the ADAAA. These rules of construction include a statement that “substantially limits” should be construed broadly and is “not meant to be a demanding standard.” To qualify as “substantially” limiting, the impairment must simply restrict the employee “as compared to most people in the general population.” Proof of such substantial impairment does not require medical or other scientific evidence or other analysis. Finally, if an individual has a disability that is episodic or otherwise in remission, the employee may still be a covered individual with a disability if the impairment is substantially limiting *when active*. The regulations also include a list of impairments for which “it should easily be concluded” that the listed impairment substantially limits a particular major life activity. For example, according to the EEOC, epilepsy substantially limits neurological function, and post-traumatic stress disorder substantially limits brain function.

Third, the regulations clarify employer requirements for individuals with a “record of” a disability. Where an individual has a record of a disability but no longer has such disability, an employer is still required to accommodate such individuals as needed for follow-up or other monitoring visits with a health care provider related to such disability.

As a result of these regulations, employers should review their policies and procedures related to individuals with disabilities and any accommodations practices related to same. Many new employees may now qualify as covered individuals with disabilities who never maintained such status in the past, and as such, employers should be vigilant in analyzing disciplinary or other changes to employment conditions related to these individuals.

A copy of the final regulations is available here: <http://federalregister.gov/a/2011-6056>.

FEES & BURGESS, P.C. - Calendar of Events

FEES & BURGESS, P.C., is proud to present, and participate in the presentation of, the following upcoming seminars/webinars:

April 14, 2011, Las Vegas, Nevada (In conjunction with IPC APEX EXPO)

Special Session: Contracting with the Customer: What the EMS Executive Needs to Know

This unique workshop, presented by Jeffrey L. Roth and Allen L. Anderson of Fees & Burgess, P.C., addresses the specific issues EMS companies face while contracting. Participants will be led through the contracting lifecycle between an electronic manufacturing services (EMS) provider and its customer, starting with the initial engagement and signing of a nondisclosure agreement, through the bid process and formal contract negotiation, to resolution of disputes under the applicable contract(s).

May 15 - May 18, 2011; 3:15 p.m. - 4:15 p.m.; Orlando, Florida

Contracting for the Purchase and Sale of Goods in a Risky Global Market

At the 96th Annual International Supply Management Conference and Educational Exhibit, Jeffrey Roth and Allen Anderson of Fees & Burgess, P.C., will be presenting a course titled "Contracting for the Purchase and Sale of Goods in a Risky Global Market."

Contracts are a first and last line of risk management, because they both define the responsibilities of the parties in the first instance and further define the performance of the parties in the last instance. Accordingly, ISM members must be versed in identifying their areas of risk in a supply chain relationship, and, once identified, must know how to account for those risks in their contract terms.

This risk identification and management session is aimed at supply chain staff of all levels, and in a wide range of disciplines, including engineering, design, project management, production, sales, manufacturing, and purchasing and procurement.

If you would like more information on these and additional seminars, please go to www.feesburgess.com.

Seminars

FEES & BURGESS, P.C., is proud to offer Seminars/Webinars on the following topics. If you would like more information on these and additional seminars, please contact us at

Seminars@feesburgess.com

A Recession Era Guide to Collecting on Construction Contracts

Conducting Effective Workplace Investigations

Construction Contracting

Contingent Employees and Labor Outsourcing

Diversity Training

Elements of an Electrical Manufacturing Services Contract

Employment Law Survival Training for Managers

Family Medical Leave Act

Hiring and Firing

Immigration Compliance

Incoterms ® 2010

Indemnity and Limitation of Liability Contract Clauses

International Contracting

Limiting Liability for Sexual Harassment

Managing Gender Identity Issues in the Workplace

Negotiation and Resolution of Federal Contract Claims

Privacy in the Workplace

Reducing Employee Benefits Costs for Alabama Businesses

Reducing Risk in Purchasing Terms and Conditions

Reduction in Workforce Strategies

Retaliation and Whistleblowers

Uniform Commercial Code: Primer to Articles 1, 2, and 2A

Violence in the Workplace

Wage and Hour Issues/Fair Labor Standards Act

Americans with Disabilities Act

Managing Employee Use of Internet and E-mail in the Workplace

Ethics, Business Conduct and Compliance in Government Contracting



SPEAKERS

FEES & BURGESS, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact seminars@feesburgess.com.

NEWSLETTERS

FEES & BURGESS, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these newsletters, please e-mail newsletters@feesburgess.com with your contact information.

To remove your name from our mailing list, please e-mail newsletters@feesburgess.com.

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“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”