

## Obesity

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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While the original ADA statute makes no mention of obesity under ADA, the 2008 amendments to ADA make it more likely that obesity may be seen as a protected disability under ADA (provided one can prove it substantially limits one or more major life activities). Obesity and related conditions are being seen in the court process at an increasing rate. In the past, courts have been hesitant to recognize obesity as a disability under ADA. It appears that this is changing and the courts are now more willing to render obesity as a covered condition under ADA. Pre-ADAAA cases generally concluded that obesity must be a result of a physiological condition to qualify as ADA protected.

*Lowe v. American Eurocopter, LLC* (N.D. Miss, 2010) concluded that because of how broadly the ADAAA defines major life activities and “regarded as having” a disability, therefore the court said morbid obesity is covered irrespective of whether it is caused by a physiological condition. In another 2010 case, *EEOC v. Resources for Human Development* (E.D. LA2010), the EEOC claimed that basic obesity alone, sufficiently impacts the life activities of bending, walking, digestion, cell growth, etc., and qualifies as a disability or a perceived disability. See also, *EEOC v. Resources for Human Development, Inc.*, --- F. Supp. 2d ----, 2011 WL 6091560 (E.D. La. Dec. 2011) (“severe obesity qualifies as a disability under the ADA”) and *EEOC v. BAE Sytems, Inc.* U.S. Dist. Ct. S.D. Tex. (Civil Action No.:11-cv-3497). See: <http://www.eeoc.gov/eeoc/newsroom/release/7-24-12c.cfm> [1].

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### Links:

[1] <http://www.eeoc.gov/eeoc/newsroom/release/7-24-12c.cfm>

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