

94-348 – ADOPTED CHANGES TO RULES

Sec. 1. Me. Hum. Rights Comm'n Reg. Ch. 3, Section 3.02(C) is repealed as follows:

3.02 DEFINITIONS

~~C. Physical or Mental Disability.~~

~~(1) "Physical or mental disability" means:~~

~~(a) Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness;~~

~~(b) The physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist; or~~

~~(c) Any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.~~

~~(2) For purposes of subsection (C)(1)(a) only, the following terms have the following meaning:~~

~~_____ (a) "Disability" means a physiological or mental condition that limits one or more major life activities, including, but not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, lifting, reproduction, eating, sleeping, driving, and working. The term "limits one or more major life activities" means makes achievement of a major life activity or activities difficult.~~

~~_____ (b) "Infirmity" means a physiological disorder affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~

~~_____ (c) "Malformation" means a defective or abnormal bodily formation affecting one or more of the following body systems: neurological, musculoskeletal, special sense~~

organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

~~(d) “Disfigurement” means an externally visible malformation.~~

~~(e) “Congenital defect” means a bodily defect present at birth affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~

~~(f) “Mental condition” means any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~(3) Mitigating measures.~~

~~— The existence of a “physical or mental disability” is determined without regard to whether its effect is or can be mitigated by measures such as medication, auxiliary aids, prosthetic devices, or other ameliorative measures.~~

~~(4) Exceptions.~~

~~— The term “physical or mental disability” does not include the following:~~

~~(a) Conditions that are ordinarily experienced by the average person in the general population or are both transitory and minor, although episodic conditions shall not be considered transitory. Conditions that fit within this exception include, but are not limited to, minor cuts or bruises, the common cold, typical flu, upset stomach, or ordinary headaches;~~

~~(i) The term “minor” refers to conditions with minimal adverse impact on an individual. Any one or more of the following factors may be considered in determining whether a condition is minor:~~

~~— The nature and severity of the condition;~~

~~— The duration or expected duration of the condition;~~

- ~~_____ The nature and severity of any symptoms associated with the condition, including, but not limited to, pain, discomfort, loss of enjoyment of life, disfigurement, or impairment of functioning;~~
- ~~_____ The nature and severity of any adverse physiological or psychological effects of the condition;~~
- ~~_____ The nature and severity of any adverse social or economic consequences of the condition;~~
- ~~_____ The extent of medical care, if any, required or expected to treat the condition;~~
- ~~_____ The perceptions or expectations of others with respect to any of these factors; or~~
- ~~_____ The extent to which the condition is susceptible to prejudice, stigma, stereotype, or fears.~~

- ~~(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, sexual behavior disorders, compulsive gambling, kleptomania, pyromania; or~~
- ~~(c) Psychoactive substance use disorders resulting from current illegal use of drugs, although this shall not be construed to exclude an individual who—~~
 - ~~(i) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;~~
 - ~~(ii) is participating in a supervised rehabilitation program and is no longer engaging in such use;~~
 - ~~(iii) is erroneously regarded as engaging in such use, but is not engaging in such use; or~~

~~(iv) — in the context of a reasonable accommodation, is seeking treatment or has successfully completed treatment.~~

~~(5) — Person with physical or mental disability.~~

~~"Person with physical or mental disability" or "individual with a physical or mental disability" means a person who:~~

~~(a) — Has a physical or mental disability;~~

~~(b) — Has a record of a physical or mental disability; or~~

~~(c) — Is regarded as having a physical or mental disability.~~

Sec. 2. Me. Hum. Rights Comm'n Reg. Ch. 5, Part II (B) is repealed as follows:

PART II. DEFINITIONS

~~B. — Physical or Mental Disability.~~

~~(1) — "Physical or mental disability" means:~~

~~(a) — Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness;~~

~~(b) — The physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist; or~~

~~(c) — Any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.~~

~~(2) — For purposes of subsection (B)(1)(a) only, the following terms have the following meaning:~~

~~(a) — "Disability" means a physiological or mental condition that limits one or more major life activities, including, but not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, lifting, reproduction, eating, sleeping, driving, and working. The term "limits one or more major~~

life activities” means makes achievement of a major life activity or activities difficult.

(b) “Infirmity” means a physiological disorder affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

(c) “Malformation” means a defective or abnormal bodily formation affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

(d) “Disfigurement” means an externally visible malformation.

(e) “Congenital defect” means a bodily defect present at birth affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

(f) “Mental condition” means any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) Mitigating measures.

The existence of a “physical or mental disability” is determined without regard to whether its effect is or can be mitigated by measures such as medication, auxiliary aids, prosthetic devices, or other ameliorative measures.

(4) Exceptions.

The term “physical or mental disability” does not include the following:

(a) Conditions that are ordinarily experienced by the average person in the general population or are both transitory and minor, although episodic conditions shall not be considered transitory. Conditions that fit within this exception include,

but are not limited to, minor cuts or bruises, the common cold, typical flu, upset stomach, or ordinary headaches;

~~(i) The term “minor” refers to conditions with minimal adverse impact on an individual. Any one or more of the following factors may be considered in determining whether a condition is minor:~~

~~The nature and severity of the condition;~~

~~The duration or expected duration of the condition;~~

~~The nature and severity of any symptoms associated with the condition, including, but not limited to, pain, discomfort, loss of enjoyment of life, disfigurement, or impairment of functioning;~~

~~The nature and severity of any adverse physiological or psychological effects of the condition;~~

~~The nature and severity of any adverse social or economic consequences of the condition;~~

~~The extent of medical care, if any, required or expected to treat the condition;~~

~~The perceptions or expectations of others with respect to any of these factors; or~~

~~The extent to which the condition is susceptible to prejudice, stigma, stereotype, or fears.~~

~~(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, sexual behavior disorders, compulsive gambling, kleptomania, pyromania; or~~

~~(c) Psychoactive substance use disorders resulting from current illegal use of drugs, although this shall not be construed to exclude an individual who~~

- (i) ~~has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;~~
- (ii) ~~is participating in a supervised rehabilitation program and is no longer engaging in such use; or~~
- (iii) ~~is erroneously regarded as engaging in such use, but is not engaging in such use.~~

~~(5) Person with physical or mental disability.~~

~~"Person with physical or mental disability" or "individual with a physical or mental disability" means a person who:~~

- ~~(a) Has a physical or mental disability;~~
- ~~(b) Has a record of a physical or mental disability; or~~
- ~~(c) Is regarded as having a physical or mental disability.~~

Sec. 3. Me. Hum. Rights Comm'n Reg. Ch. 7, Section 7.01 is repealed, in part, as follows:

7.01 Definitions

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~~Physical or Mental Disability.~~

- (1) ~~"Physical or mental disability" means:~~
 - (a) ~~Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness;~~
 - (b) ~~The physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist; or~~

~~(c) — Any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.~~

~~(2) — For purposes of subsection (1)(a) only, the following terms have the following meaning:~~

~~————— (a) — “Disability” means a physiological or mental condition that limits one or more major life activities, including, but not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, lifting, reproduction, eating, sleeping, driving, and working. The term “limits one or more major life activities” means makes achievement of a major life activity or activities difficult.~~

~~————— (b) — “Infirmity” means a physiological disorder affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~

~~————— (c) — “Malformation” means a defective or abnormal bodily formation affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~

~~————— (d) — “Disfigurement” means an externally visible malformation.~~

~~————— (e) — “Congenital defect” means a bodily defect present at birth affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~

~~————— (f) — “Mental condition” means any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~————— (3) — Mitigating measures.~~

The existence of a “physical or mental disability” is determined without regard to whether its effect is or can be mitigated by measures such as medication, auxiliary aids, prosthetic devices, or other ameliorative measures.

~~(4) Exceptions:~~

~~The term “physical or mental disability” does not include the following:~~

~~(a) Conditions that are ordinarily experienced by the average person in the general population or are both transitory and minor, although episodic conditions shall not be considered transitory. Conditions that fit within this exception include, but are not limited to, minor cuts or bruises, the common cold, typical flu, upset stomach, or ordinary headaches;~~

~~(i) The term “minor” refers to conditions with minimal adverse impact on an individual. Any one or more of the following factors may be considered in determining whether a condition is minor:~~

~~The nature and severity of the condition;~~

~~The duration or expected duration of the condition;~~

~~The nature and severity of any symptoms associated with the condition, including, but not limited to, pain, discomfort, loss of enjoyment of life, disfigurement, or impairment of functioning;~~

~~The nature and severity of any adverse physiological or psychological effects of the condition;~~

~~The nature and severity of any adverse social or economic consequences of the condition;~~

~~The extent of medical care, if any, required or expected to treat the condition;~~

~~The perceptions or expectations of others with respect to any of these factors; or~~

~~The extent to which the condition is susceptible to prejudice, stigma, stereotype, or fears.~~

~~(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, sexual behavior disorders, compulsive gambling, kleptomania, pyromania; or~~

~~(c) Psychoactive substance use disorders resulting from current illegal use of drugs, although this shall not be construed to exclude an individual who—~~

~~(i) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;~~

~~(ii) is participating in a supervised rehabilitation program and is no longer engaging in such use; or~~

~~(iii) is erroneously regarded as engaging in such use, but is not engaging in such use.~~

~~(5) Person with physical or mental disability.~~

~~"Person with physical or mental disability" or "individual with a physical or mental disability" means a person who:~~

~~(a) Has a physical or mental disability;~~

~~(b) Has a record of a physical or mental disability; or~~

~~(c) Is regarded as having a physical or mental disability.~~

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Sec. 4. Me. Hum. Rights Comm'n Reg. Ch. 8, Section 8.03 is repealed, in part, as follows:

8.03 DEFINITIONS

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Physical or Mental Disability.

(1) — "Physical or mental disability" means:

- (a) — ~~Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness;~~
- (b) — ~~The physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist; or~~
- (c) — ~~Any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.~~

(2) — For purposes of subsection (1)(a) only, the following terms have the following meaning:

- (a) — ~~"Disability" means a physiological or mental condition that limits one or more major life activities, including, but not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, lifting, reproduction, eating, sleeping, driving, and working. The term "limits one or more major life activities" means makes achievement of a major life activity or activities difficult.~~
- (b) — ~~"Infirmity" means a physiological disorder affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~
- (c) — ~~"Malformation" means a defective or abnormal bodily formation affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.~~
- (d) — ~~"Disfigurement" means an externally visible malformation.~~

(e) “Congenital defect” means a bodily defect present at birth affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

(f) “Mental condition” means any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) Mitigating measures.

The existence of a “physical or mental disability” is determined without regard to whether its effect is or can be mitigated by measures such as medication, auxiliary aids, prosthetic devices, or other ameliorative measures.

(4) Exceptions.

The term “physical or mental disability” does not include the following:

(a) Conditions that are ordinarily experienced by the average person in the general population or are both transitory and minor, although episodic conditions shall not be considered transitory. Conditions that fit within this exception include, but are not limited to, minor cuts or bruises, the common cold, typical flu, upset stomach, or ordinary headaches;

(i) The term “minor” refers to conditions with minimal adverse impact on an individual. Any one or more of the following factors may be considered in determining whether a condition is minor:

The nature and severity of the condition;

The duration or expected duration of the condition;

The nature and severity of any symptoms associated with the condition, including, but not limited to, pain, discomfort, loss of enjoyment of life, disfigurement, or impairment of functioning;

- ~~_____ The nature and severity of any adverse physiological or psychological effects of the condition;~~
- ~~_____ The nature and severity of any adverse social or economic consequences of the condition;~~
- ~~_____ The extent of medical care, if any, required or expected to treat the condition;~~
- ~~_____ The perceptions or expectations of others with respect to any of these factors; or~~
- ~~_____ The extent to which the condition is susceptible to prejudice, stigma, stereotype, or fears.~~

~~_____ (b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, sexual behavior disorders, compulsive gambling, kleptomania, pyromania; or~~

~~_____ (c) Psychoactive substance use disorders resulting from current illegal use of drugs, although this shall not be construed to exclude an individual who—~~

~~(i) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;~~

~~(ii) is participating in a supervised rehabilitation program and is no longer engaging in such use; or~~

~~(iii) is erroneously regarded as engaging in such use, but is not engaging in such use.~~

~~_____ (5) Person with physical or mental disability.~~

~~"Person with physical or mental disability" or "individual with a physical or mental disability" means a person who:~~

~~_____ (a) Has a physical or mental disability;~~

~~———— (b) ——— Has a record of a physical or mental disability; or~~

~~———— (c) ——— Is regarded as having a physical or mental disability.~~

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Fiscal Impact Note: This proposed rule will not impose any cost on municipalities or counties.