

When Safety and Disability Rights Collide: Navigating the ADA in the Workplace

August 19, 2026
By Peter Spanos



Employers in the construction and manufacturing sectors occasionally confront complex workplace issues involving employees with disabilities, often related to prior injuries, where those conditions may pose safety risks to the employees themselves or to their co-workers. Such situations often involve employees who have valuable skills and experience, but who pose safety risks if they are assigned the full spectrum of tasks under their job description.

These employees are protected by rights under the Americans with Disabilities Act (ADA), but their employer has an obligation to prevent them and co-workers from being exposed to known risks of serious physical harm. This balance is not easy to navigate. For HR professionals and in-house counsel, understanding where the ADA draws its lines, and where employers most often cross them, is essential to managing safety-related situations without inviting a discrimination claim.

The Direct Threat Standard: The Only Real Safety Exception

The ADA doesn't allow employers to exclude an employee from a position, or take adverse action, simply because the employee has a disability that could create risk. The statute carves out a narrow exception: an employer may act if the employee poses a direct threat, which is defined as a significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or reduced through reasonable accommodation.

That standard has teeth, and each word matters:

- **Significant risk**, not a slightly elevated or speculative one
- **Substantial harm**, not minor or theoretical injury
- **Assessed through an individualized** evaluation, not generalized assumptions about a diagnosis or condition
- **Based on the most current medical knowledge and/or objective evidence**, not outdated stereotypes or a manager's gut instinct
- Considered only **after** evaluating whether reasonable accommodation would neutralize the risk

The EEOC has been consistent for decades: an employer cannot rely on generalizations about a disability, an employee's diagnosis in isolation, or a "better safe than sorry" instinct. The threat has to be real, current, and specific to the individual in the specific job.

The Four-Factor Direct Threat Analysis

When evaluating whether a genuine direct threat exists, courts and the EEOC look at:

- **Duration of the risk.** Is this a temporary condition or an ongoing one?
- **Nature and severity of the potential harm.** How serious could the injury be?
- **Likelihood the harm will occur.** Is this a real probability or a remote possibility?
- **Imminence of the harm.** How soon could the harm materialize?

Employers frequently stumble by skipping bullet point one and going straight to bullet point two, imagining worst-case harm, without seriously grappling with likelihood and imminence. A theoretical catastrophic outcome with a low probability of occurring generally will not satisfy the standard.

Essential Functions Come First

Before any safety analysis, the more fundamental question is whether the employee can perform the essential functions of the position, with or without reasonable accommodation. Safety concerns are frequently really essential function concerns in disguise — an employer worried about a “safety issue” is often actually worried about whether the person can physically or mentally execute a core job duty.

This distinction matters procedurally. Essential function analysis and direct threat analysis are related but separate inquiries, and conflating them tends to produce sloppy, defensible-sounding decisions that don't hold up. A written, thorough, and updated job description identifying essential functions, developed before a dispute arises, is one of the most valuable tools an employer can have in either analysis.

Objective Evidence, Not Instinct

A recurring theme across ADA safety litigation is the demand for objective evidence over subjective judgment. Employers who prevail tend to point to:

- Documented, specific incidents (falls, near-misses, errors with safety implications)
- Credible medical opinions tied to the actual essential functions of the job
- Observable, recent performance or behavioral indicators, not stale history or rumor

Employers who lose tend to rely on assumptions: the belief that a particular diagnosis inherently makes someone unsafe, or that a visible mobility aid, medication, or past medical leave signals risk. The ADA's core anti-stereotyping purpose is aimed precisely at that kind of reasoning.

Reasonable Accommodation Still Comes First

Even where a legitimate safety concern exists, the ADA requires employers to consider whether reasonable accommodation would eliminate or sufficiently reduce the risk before taking adverse action. This might include modified duties, additional safety equipment, adjusted schedules, or reassignment. Only if no accommodation reduces the risk to an acceptable level, and the employer can show that the accommodation would pose undue hardship, does exclusion become legally supportable.

Skipping this step, even with good intentions, is one of the most common and costly mistakes employers make.

Fitness-for-Duty Exams: A Common Flashpoint

Safety concerns often lead employers toward fitness-for-duty (FFD) exams, which are permissible under the ADA only when job-related and consistent with business necessity — generally requiring objective evidence that a medical condition may impair job performance or create a safety risk. A single ambiguous incident, a known diagnosis standing alone, or generalized concern typically won't clear that bar. The request also has to be narrowly scoped to what's needed to assess ability to safely

perform the job, not a broad inquiry into unrelated medical history.

The Bottom Line

The ADA doesn't ask employers to ignore safety. It requires them to prove it, with facts, with process, and with an honest accounting of whether accommodations could have solved the problem. Employers who build that discipline into their practices protect their workforce and substantially reduce their legal exposure at the same time.