Long COVID as an Emerging Disability Under the Americans with Disabilities Act

I. Introduction

The COVID-19 pandemic transformed the American workplace in many ways, with Long COVID emerging as one of its most significant and legally challenging consequences.[1] For many individuals, symptoms such as chronic fatigue, cognitive impairment ("brain fog"), respiratory complications, and cardiovascular irregularities prevent them from maintaining the pace and consistency their jobs require or from working entirely.[2] This raises an urgent legal question of whether and how Long COVID qualifies as a disability under the Americans with Disabilities Act (ADA). This answer matters not only because of Long COVID's immediate workforce consequences, but because it will shape how disability law responds to emerging, difficult-to-diagnose conditions for years to come.[3]

The numbers are hard to ignore. Approximately twenty million Americans have experienced Long COVID, and the Equal Employment Opportunity Commission (EEOC) reports that roughly one in ten adults who contract COVID-19 experience symptoms lasting longer than three months.[4] Federal Reserve data indicates that individuals with persistent post-COVID

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[1] *Long COVID Basics*, CTRS. FOR DISEASE CONTROL & PREVENTION (July 24, 2025), https://www.cdc.gov/long-covid/about/index.html.

[2] Sarah R. MacEwan et al., *The Impact of Long COVID on Employment and Well-Being: A Qualitative Study of Patient Perspectives*, 40 J. GEN. INTERN. MED. 1070, 1077 (2024).

[3] Kenny Cheng, *Long COVID Keeps People Out of Work and Hurts the Economy,* YALE MEDICINE (Dec. 23, 2024), https://www.yalemedicine.org/news/long-covid-keeps-people-out-of-work-and-hurts-the-economy (emphasizing that millions of Americans are struggling to return to work after their initial infection); Sarah M. Bartsch et al., *The Current and Future Burden of Long COVID in the United States*, 231 J. INFECT. DIS. 1581, 1590 (2025) (finding that the total cost of a Long COVID case can range from $5,084-$11,646); MacEwan, *supra* note 2 (finding that twenty-two percent of individuals with Long COVID reported being unable to work six months after initial infection, forty-five percent required a reduced work schedule, and eighteen percent were unable to return to work a year after infection).

[4] Cheng, *supra* note 3 (reporting that over four hundred million people worldwide and twenty million Americans have had Long COVID); *What You Need to Know About Long COVID*, NAT'L

symptoms are less likely to be employed and, when employed, often work fewer hours.[5] In 2022 alone, reduced work capacity associated with Long COVID generated an estimated $170 billion dollars in lost wages nationwide.[6] Economists and policymakers have linked the condition to extended medical leave, reduced hours, and permanent labor-force exit.[7] Media coverage increasingly documents workers who are unable to return to prior roles while employers struggle to evaluate accommodation requests for this condition that remains medically complex and highly individualized.[8] Federal agencies, including the Department of Justice, the Department of Health and Human Services, and the EEOC, have acknowledged that Long COVID can qualify as a disability under federal civil rights statutes, confirming that this is no longer a hypothetical concern but a legal reality with serious consequences for workers and employers alike.[9]

INSTS. OF HEALTH, https://covid19community.nih.gov/sites/default/files/2023-02/CEAL-WhatYouNeedtoKnowLongCOVID-English.pdf (reporting that as many as twenty-three million Americans may have symptoms of Long COVID).

[5] Brendan M. Price, *Long COVID, Cognitive Impairment, and the Stalled Decline in Disability Rates*, BD. OF GOVERNORS OF THE FED. RES. SYS. (Aug. 5, 2022), https://www.federalreserve.gov/econres/notes/feds-notes/long-covid-cognitive-impairment-and-the-stalled-decline-in-disability-rates-20220805.html.

[6] Amit Bansal*, Economic Burden of Long COVID: Macroeconomic, Cost-of-Illness and Microeconomic Impacts,* NAT'L LIB. OF MED. (Nov. 21, 2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC12639003/.

[7] Katie Bach, *New Data Shows Long COVID Is Keeping as Many as 4 Million People Out of Work*, BROOKINGS INST. (Aug. 24, 2022), https://www.brookings.edu/articles/new-data-shows-long-covid-is-keeping-as-many-as-4-million-people-out-of-work/ (estimating that two to four million people are out of work due to Long COVID); Price, *supra* note 5; Bartsch, *supra* note 3; Cheng, *supra* note 3.

[8] Greg Iacurci, *Long Covid is Distorting the Labor Market–and That's Bad for the U.S. Economy*, CNBC NEWS (Dec. 8 2022), https://www.cnbc.com/2022/12/08/long-covid-is-distorting-the-labor-market-hurting-the-us-economy.html; Aimee Picchi, *A Cause of America's Labor Shortage: Millions with Long COVID*, CBS NEWS (Feb. 1, 2022), https://www.cbsnews.com/news/long-covid-labor-market-missing-workers/.

[9] *Guidance on "Long COVID" as a Disability Under the ADA, Section 504, and Section 1557*, U.S. DEP'T OF HEALTH & HUM. SERVS., https://www.hhs.gov/civil-rights/for-providers/civil-rights-covid19/guidance-long-covid-disability/index.html (last reviewed July 30, 2025); *DOJ and HHS Issue Guidance on "Long COVID" and Disability Rights Under the ADA, Section 504, and Section 1557*, U.S. DEP'T OF HEALTH & HUM. SERVS. (July 26, 2021),

Despite this recognition, the ADA's application to Long COVID remains unsettled. Its fluctuating and episodic nature makes it difficult for courts to apply the ADA consistently, particularly because the statute focuses on functional limitations rather than precise medical diagnoses.[10] These challenges extend well beyond COVID-19 itself and raise broader questions about how disability law should respond to conditions that are real and disabling yet resistant to traditional diagnostic criteria.[11]

This paper analyzes how the ADA applies to Long COVID in the employment context and examines the implications for both employees and employers. [12] Section II provides background on Long COVID and its symptoms and then outlines the ADA's statutory framework. Section III examines how Long COVID claims fit within the ADA's definition of disability, including actual disability, record-of-impairment, and regarded-as theories, as well as the "otherwise qualified" standard and reasonable accommodations. Section IV addresses employer defenses, including undue hardship and direct threat. Ultimately, this analysis demonstrates that although Long

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https://www.justice.gov/archives/opa/pr/doj-and-hhs-issue-guidance-long-covid-and-disability-rights-under-ada-section-504-and-section (archived) [hereinafter *Long COVID Guidance*]; *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, U.S. EQUAL EMP. OPPORTUNITY COMM'N (May 15, 2023), https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws [hereinafter *What You Should Know About COVID-19 and the ADA*].

[10] Angelica Guevara, *To Be, or Not to Be, Will Long COVID Be Reasonably Accommodated Is the Question*, 23 MINN. J.L. SCI. & TECH., 253, 260–65 (2022); Emily P. King, *Long COVID and Temporary Conditions as Disabilities Under the ADA*, 2022 U. CHI. LEGAL F. 299, 305–12 (2023).

[11] Leslie P. Francis & Michael Ashley Stein, "*Long-COVID," Bodily Systems as ADAAA Major Life Activities, and the Social Model of Disability*, 2022 U. CHI. LEGAL F. (2023) https://legal-forum.uchicago.edu/print-archive/long-covid-bodily-systems-adaaa-major-life-activities-and-social-model-disability.

[12] Because case law directly addressing Long COVID under the Americans with Disabilities Act remains limited, this analysis will also draw on established ADA doctrine and precedent developed in cases involving analogous episodic, post-viral, and invisible disabilities to demonstrate how existing legal principles apply to employees experiencing Long COVID-related symptoms.

COVID tests the limits of traditional disability law, the ADA's focus on individualized assessment and functional limitations provides a workable framework that balances meaningful employee protections with employers' operational needs.

II. Background

This section provides the factual and doctrinal foundation for analyzing whether Long COVID qualifies as a disability under the ADA. It first examines the medical characteristics, prevalence, and functional effects of Long COVID, and then outlines the ADA's definition of disability and the core analytical framework courts apply.

A. Long COVID

Long COVID, also known as "long-haul COVID" or post-acute sequelae of SARS-CoV-2 infection (PASC), is a post-viral condition that can affect multiple body systems and often limits an individual's ability to perform daily activities, including work.[13] The Centers for Disease Control and Prevention (CDC) defines Long COVID as a chronic condition that persists for at least four weeks following a COVID-19 infection and may involve symptoms that fluctuate, improve, worsen, resolve, or return over time.[14] The World Health Organization (WHO) uses a narrower timeline, defining Long COVID as involving symptoms that begin within three months of infection and persist for at least two months.[15] Despite these definitional differences, public health authorities agree that Long COVID is not a single, uniform disorder but an umbrella term encompassing a wide range of post-viral health complications.[16] Importantly, any individual who

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[13] *Long COVID Basics*, *supra* note 1; Long COVID Guidance, *supra* note 9.
[14] *Long COVID Basics*, *supra* note 1.
[15] *Post COVID-19 Condition (Long COVID)*, WORLD HEALTH ORG. (Feb. 26, 2025), https://www.who.int/news-room/fact-sheets/detail/post-covid-19-condition-(long-covid)
[16] Harry V. Fineberg et al., *A Long COVID Definition: A Chronic Systemic Disease State with Profound Consequences,* NAT'L ACADS. OF SCIS., ENG'G & MED. (2024), https://www.ncbi.nlm.nih.gov/books/NBK605682/; *see Long COVID: Lasting Effects of COVID-*

contracts COVID-19 may develop Long COVID, regardless of age, prior health status, or vaccination history.[17]

Clinically, Long COVID presents with a broad and often unpredictable range of symptoms.[18] Researchers at the Mayo Clinic have identified more than two hundred symptoms associated with Long COVID, with the most common including persistent fatigue, shortness of breath, chest pain, heart palpitations, cognitive dysfunction, sleep disturbances, headaches, dizziness, and sensory impairment.[19] Many individuals also experience autonomic dysfunction and post-exertional symptom exacerbation, a pattern in which physical or cognitive activity triggers symptom flare-ups, resulting in cycles of relative stability followed by periods of relapse.[20] Because Long COVID can affect multiple organ systems simultaneously and often worsens with exertion, maintaining consistent workplace performance can be difficult.[21]

These challenges are further complicated by the lack of a definitive diagnostic test. Because there is no universally accepted laboratory marker for Long COVID, clinicians must rely largely on reported symptoms, medical history, and the exclusion of alternative causes, with treatment focused primarily on symptom management.[22] That diagnostic uncertainty often leads to delayed

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19, MAYO CLINIC, https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351 (last visited Dec. 20, 2025); *see generally Post COVID-19 Condition (Long COVID)*, *supra* note 15.

[17] *See Long COVID Basics*, *supra* note 1.

[18] *Post COVID-19 Condition (Long COVID)*, *supra* note 15.

[19] *Long COVID: Lasting Effects of COVID-19*, *supra* note 16; Long COVID Guidance, *supra* note 9.

[20] *Long COVID Signs and Symptoms*, CTRS. FOR DISEASE CONTROL & PREVENTION (Mar. 9, 2026), https://www.cdc.gov/long-covid/signs-symptoms/index.html.

[21] Long COVID Guidance, *supra* note 9.

[22] Lauren E. Wisk et al., *Variability in Long COVID Definitions and Validation of Published Prevalence Rates*, NAT'L LIB. OF MED. (2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC12344537/ (finding that the absence of a universally accepted definition and diagnostic criteria for Long COVID has led to varied estimates of its prevalence).

diagnoses, inconsistent medical documentation, and skepticism from employers and healthcare providers.[23] This creates real barriers for individuals trying to establish functional limitations, document disability status, or secure workplace accommodations under the ADA.[24]

Long COVID challenges disability law not because it falls outside the ADA's reach, but because it does not fit neatly within the assumptions that have traditionally shaped disability determinations. The condition's variability, episodic symptoms, and evolving scientific understanding challenge the assumption that disabilities are always stable, readily measurable, and easily diagnosable.[25] Yet, instead of placing it beyond the ADA's reach, those same characteristics illustrate exactly why the statute's fact-and individual-specific framework exists in the first place. The real challenge is not whether Long COVID can qualify as a disability, but how the ADA should be applied to a condition that often produces substantial limitations despite being difficult to diagnose and assess.

B. The Americans with Disabilities Act

To prevail on an ADA claim, a plaintiff must establish three elements: that they have a disability within the meaning of the statute, that they are qualified to perform the essential functions of their position with or without reasonable accommodation, and that they suffered an adverse employment action or were denied an accommodation because of that disability.[26] Congress broadened this framework through the ADA Amendments Act of 2008 (ADAAA), which directed courts to construe disability coverage broadly and shift the focus away from

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[23] Francis & Stein, *supra* note 11 (discussing the tension between disability law and long COVID).
[24] *Id.*
[25] *Id.*
[26] 42 U.S.C. § 12112(a); *Eshelman v. Patrick Indus., Inc.*, 961 F.3d 242, 245 (3d Cir. 2020); *Taylor v. Phoenixville Sch. Dist.*, 184 F.3d 296, 306 (3d Cir. 1999).

threshold definitional disputes toward the central question of whether discrimination actually occurred.[27]

Under the ADA, an individual may establish disability status through one of three prongs: an actual impairment that substantially limits a major life activity, a record of such an impairment, or proof that they were regarded as having an impairment.[28] Major life activities include everyday tasks like walking, breathing, concentrating, communicating, and working, as well as the operation of major bodily functions, including neurological, respiratory, cardiovascular, and immune functions.[29] Consistent with the ADAAA's expansive approach, EEOC regulations emphasize that "substantially limits" is not a demanding standard, and that episodic or remitting impairments may qualify when active.[30] The ADAAA therefore directs courts to focus on functional limitations rather than on diagnostic precision, severity, or permanence.[31]

ADA protection extends only to individuals who are "otherwise qualified," meaning capable of performing the essential functions of the position with or without a reasonable accommodation.[32] Essential functions are the fundamental duties of a role, not marginal or incidental tasks, and courts assess these through a fact-intensive inquiry considering the employer's judgment, written job descriptions, consequences of nonperformance, and the experiences of similarly situated employees.[33]

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[27] ADA Amendments Act of 2008 (ADAAA), Pub. L. No. 110–325, § 2(b), 122 Stat. 3553, 3554 (2008); 29 C.F.R. § 1630.1(c)(4).
[28] 42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2(g).
[29] 42 U.S.C. § 12102(2); 29 C.F.R. § 1630.2(i).
[30] 42 U.S.C. § 12102(4)(A), (B), (D); 29 C.F.R. § 1630.2(j)(1)(i).
[31] ADAAA § 2(b).
[32] 42 U.S.C. §§ 12111(8), 12112(a).
[33] 29 C.F.R. § 1630.2(n).

Where an employee is otherwise qualified, an employer must provide reasonable accommodations for known limitations unless doing so would impose an undue hardship or create a direct threat.[34] Although employers must engage in a good-faith interactive process to identify effective options, they retain the discretion to choose among them.[35] The ADA does not, however, require employers to eliminate essential duties, create new positions, or provide indefinite leave.[36] Employers may also invoke the direct-threat defense when an employee poses a significant risk of substantial harm that cannot be eliminated through a reasonable accommodation.[37] Both defenses are narrowly construed and must be supported by an individualized assessment grounded in reasonable medical judgment and objective evidence.[38]

These principles apply to Long COVID through the same functional, case-by-case analysis the ADA demands for any other alleged disability. Section III examines how courts have begun applying that analysis to Long COVID.

III. Analysis: Whether Long COVID Meets the ADA's Statutory Requirements

The following sections apply the ADA's disability, qualification, and accommodation framework to Long COVID claims. By drawing on emerging case law and established disability doctrine, this analysis demonstrates that existing legal principles can address an emerging condition characterized by fluctuating symptoms and uncertain recovery timelines.

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[34] 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.9(a).
[35] 29 C.F.R. § 1630.9*; U.S. Airways, Inc. v. Barnett*, 535 U.S. 391 (2002); *Walton v. Mental Health Ass'n*, 168 F.3d 661, 671 (3d Cir. 1999).
[36] *Southeastern Cmty. Coll. v. Davis*, 442 U.S. 397, 406 (1979).
[37] 42 U.S.C. §§ 12111(3), 12113(b); 29 C.F.R. § 1630.2(r); *see Chevron U.S.A. Inc. v. Echazabal*, 536 U.S. 73, 86–87 (2002) (requiring individualized, medically reasonable assessment based on objective evidence).
[38] 29 C.F.R. § 1630.2(r); *Echazabal*, *supra* note 37, at 86; *Bragdon v. Abbott*, 524 U.S. 624, 649–50 (1998).

A. Establishing Disability Status Under the ADA

The ADA recognizes three paths through which a plaintiff can establish disability status, and each presents distinct considerations for Long COVID claimants.[39] Under the actual disability prong, plaintiffs must connect specific symptoms to concrete functional limitations.[40] This task can be challenging because of Long COVID's unpredictable symptoms and the absence of standardized diagnostic criteria.[41] The record of impairment prong focuses on documented medical history, and employer awareness, making the quality and timing of leave requests, physician notes, and workplace communications especially important.[42] The regarded-as prong shifts the focus away from the employee's actual condition and toward the employer's perception, asking whether the employer treated the condition as a potentially ongoing impairment rather than a brief illness.[43] Because Long COVID manifests differently across individuals and over time, no single prong will apply uniformly.

1. Actual Disability: Individualized Functional Limitation

Long COVID constitutes an actual disability under the ADA when a plaintiff pleads specific facts showing that their symptoms substantially limit one or more major life activities.[44] Consistent with the ADAAA's emphasis on an individualized evaluation, courts look at the severity, duration, frequency, and overall impact of a person's symptoms to determine whether

[39] 42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2(g)(1), (2).
[40] 29 C.F.R. § 1630.2(g).
[41] Wisk et al., *supra* note 22.
[42] 42 U.S.C. § 12102(1)(B); 29 C.F.R. § 1630.2(k)(1); 29 C.F.R. pt. 1630 app. § 1630.2(k).
[43] 42 U.S.C. § 12102(1)(C); 29 C.F.R. § 1630.2(g)(1)(iii); H.R. Rep. No. 110-730, pt. 2, at 17–18 (2008).
[44] 42 U.S.C. § 12102(1)(A); 29 C.F.R. § 1630.2(g)(1)(i), (j)(1)(i)–(ii).

they substantially limit major life activities such as breathing, concentrating, communicating, or working, as well as the operation of major bodily functions.[45]

Federal guidance reflects this approach. The EEOC has recognized that Long COVID may qualify as a disability when its effects create genuine barriers to workplace participation.[46] For example, in a 2022 decision from the Middle District of Alabama, *Brown v. Roanoke Rehab & Healthcare Center*, the court held that a healthcare worker sufficiently alleged an actual disability by describing COVID-related symptoms such as persistent fatigue, cognitive dysfunction, and respiratory problems that substantially limited her ability to breathe, concentrate, communicate, and work.[47] After Brown's physician directed her to isolate for fourteen days, her supervisor continued to pressure her to return to work and ultimately terminated her employment one day before the isolation period ended.[48] The court found that her complaint did more than just identify a medical condition, it connected specific symptoms to concrete functional limitations which affected her ability to participate in the workplace.[49]

By contrast, courts have rejected Long COVID claims that rely on generalized assertions without explaining how their symptoms limit a major life activity. For example, in *Rawling v. School District of Philadelphia*, a 2024 Eastern District of Pennsylvania decision, the court

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[45] *Toyota Motor Mfg., Ky., Inc. v. Williams*, 534 U.S. 184, 198–99 (2002) (describing the individualized nature of disability determinations), *superseded by statute on other grounds by* ADAAA; 42 U.S.C. § 12102(4); 29 C.F.R. § 1630.2(j)(1)(iv); 29 C.F.R. pt. app. 1630 § 1630.2(j).

[46] Long COVID Guidance, *supra* note 9 (recognizing that Long-COVID may qualify as a disability where it substantially limits one or more major life activities and emphasizing individualized, functional assessment rather than diagnostic labels).

[47] *Brown v. Roanoke Rehab. & Healthcare Ctr.*, 586 F. Supp. 3d 1171, 1176–78 (M.D. Ala. 2022) (holding that persistent post-COVID fatigue, cognitive dysfunction, and respiratory impairment that substantially limited major life activities stated a plausible actual-disability claim).

[48] *Id.* at 1174–75.

[49] *Id.* at 1177–78.

dismissed an ADA claim where a teacher alleged Long COVID but failed to show how her specific symptoms substantially limited any major life activity.[50] Although Rawling described workplace conflict following disclosure, she provided no allegations detailing the severity, frequency, or duration of her symptoms or their impact on activities such as working or concentrating.[51]

Similarly, in *Earl v. Good Samaritan Hospital of Suffern NY*, a 2022 Southern District of New York decision, the court rejected generalized assertions of lingering COVID-related symptoms where the plaintiff failed to connect those symptoms to any major life activity that was substantial limited.[52] Earl, a critical care nurse, contracted COVID-19 which he claims later developed into Long COVID, and caused him to experience symptoms such as an inability "to get a peaceful night's rest," brain fog, memory loss, difficulty breathing, and loss of joy in eating food.[53] Drawing all inferences in favor of the employee, the court declined to infer disability status absent allegations detailing functional impact.[54]

Together, *Brown*, *Rawling*, and *Earl* illustrate a consistent theme in Long COVID litigation: courts evaluate functional limitations, not diagnostic labels.[55] *Brown* illustrates that tying persistent symptoms to specific limitations in everyday and workplace activities satisfies the actual-disability prong.[56] By contrast, *Rawling* and *Earl*, show that conclusory allegations of Long

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[50] *Rawling v. Sch. Dist. of Phila.*, No. 23-4237, 2024 U.S. Dist. LEXIS 205751, at *10–14 (E.D. Pa. Nov. 12, 2024) (dismissing ADA claim where the plaintiff alleged Long-COVID without pleading functional limitations).
[51] *Id.* at *10–14.
[52] *Earl v. Good Samaritan Hosp. of Suffern N.Y.*, 625 F. Supp. 3d 292, 299–307 (S.D.N.Y. 2022) (holding that allegations of workplace conflict and adverse treatment, without facts regarding the severity, durations or functional impact of his symptoms, were insufficient to state an ADA claim).
[53] *Id.* at 305–07.
[54] *Id.* at 304–07.
[55] *Brown*, *supra* note 47, at 1178–80; *Rawling*, *supra* note 50, at *9-11; *Earl*, *supra* note 52, at 304–305.
[56] *Brown*, *supra* note 47, at 1178–80.

COVID, standing alone, are insufficient.[57] Ultimately, whether Long COVID qualifies as an actual disability depends on a plaintiff's ability to allege and prove concrete facts demonstrating substantial limitations to major life activities. [58]

2. Record of Impairment: Employer Knowledge and Reliance

The ADA's "record of impairment" prong protects employees from adverse actions based on documented medical history. [59] To establish coverage, a plaintiff must show that the employer was aware of a record showing functional limitations and relied on that record in making an employment decision.[60] The focus is not on diagnostic precision or certainty, but on whether the employer knew and acted on the documented impairments. [61] For employees recovering from Long COVID, this prong is particularly valuable because it accounts for fluctuating post-viral symptoms and the difficulty of obtaining timely diagnoses.

Courts have found triable issues of fact where employers were aware of documented medical restrictions and it appears that they may have relied on them in making employment decisions.[62] In a 2025 decision from the Middle District of Pennsylvania, *Steed v. Geisinger Health*, the court denied summary judgment after finding sufficient evidence that a reasonable jury could conclude that decisionmakers relied on the plaintiff's documented back injury rather than

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[57] *Rawling*, *supra* note 50, at *10–11; *Earl*, *supra* note 52, at 304–307.
[58] *See Rawling*, *supra* note 50, at *18–21; *see also Earl*, *supra* note 52, at 304–06; ADAAA § 2(b)(1)-(5); 29 C.F.R. § 1630.2(j)(1)(iv).
[59] 42 U.S.C. § 12102(1)(B); 29 C.F.R. § 1630.2(k).
[60] 42 U.S.C. § 12102(1)(B); 29 C.F.R. § 1630.2(k).
[61] *See Sch. Bd. of Nassau Cnty. v. Airline*, 480 U.S. 273, 282–85 (1987) (explaining that employment discrimination often rests on employee's medical history rather than current ability).
[62] No reported decision has addressed the ADA's "record of impairment" prong in the context of Long COVID or COVID-19 specifically. Therefore, this subsection draws on factually analogous precedent to illustrate how the employer-knowledge-and-reliance framework operates. This framework applies with equal force to Long COVID claimants generating records through physician notes, leave requests, and workplace communications documenting symptom-based restrictions.

his attendance record in terminating his employment.[63] The court relied on a series of text messages between Steed and his supervisors documenting his worsening symptoms, physical limitations and ongoing medical treatment. [64] These communications placed his employer on notice and created a genuine issue of material fact as to whether the termination was driven by his disability rather than neutral performance criteria. [65]

The reasoning in *Steed* applies directly to Long COVID claims. Employees experiencing persistent post-COVID symptoms often build a record of impairment through medical leave requests, physician notes, accommodation requests, and workplace communications. Therefore, when an employer takes adverse action shortly after receiving documentation of symptom-based restrictions, the timing may support an inference that the decision was influenced by the employee's medical history rather than neutral performance criteria. [66]

Employees with Long COVID may experience substantial limitations and accumulate extensive medical documentation even while healthcare providers continue to evaluate and decide the precise nature, severity, or duration of their condition. By focusing on what the employer knew about an employee's documented limitations and how that information influenced employment actions, this prong helps protect workers from decisions based on their medical history, even when the condition itself remains difficult to diagnose or predict.[67]

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[63] *Steed v. Geisinger Health*, No. 4:22-cv-01773, 2025 U.S. Dist. LEXIS 142854, at *18–23 (M.D. Pa. July 25, 2025).
[64] *Id.* at *17–22.
[65] *Id.* at *22–26, *33–39.
[66] *Steed*, *supra* note 63, at *21–23; *see Hilde v. City of Eveleth*, 777 F.3d 998, 1004–06 (8th Cir. 2015) (holding that adverse action based on assumptions drawn from an employee's documented medical history supports inference of unlawful motive).
[67] *See Steed*, *supra* note 63, at *18-22; 29 C.F.R. pt. 1630 app. § 1630.2(k).

3. Regarded As Disabled: Perceived Impairment and the "Transitory and Minor" Limitation

The ADA's regarded-as prong protects employees who face adverse employment actions because an employer perceives them as having an impairment, regardless of whether that impairment actually rises to the level of a disability.[68] This shifts the focus away from the employee's medical condition and toward how the employer understood and responded to it.[69] In Long COVID cases, the central question is often whether the employer viewed the condition as a temporary illness that would resolve quickly or as a potentially substantial and ongoing impairment.[70] Courts have been reluctant to allow employers to avoid ADA coverage by labeling COVID-related conditions as "transitory and minor," particularly when adverse action closely follows the disclosure of symptoms or a diagnosis.[71] When an employer appears to have acted based on concerns about ongoing limitations, the employer bears the burden of establishing that the perceived impairment was both transitory and minor.[72]

The court's decision in *Matias v. Terrapin House, Inc.*, a 2021 decision from the Eastern District of Pennsylvania, illustrates the type of circumstances that can support a regarded-as claim.[73] Matias, a direct support professional, was terminated on the same day she informed her employer that she had tested positive for COVID-19 and was experiencing symptoms such as loss of taste and smell.[74] Although the employer claimed she was terminated because she was "not a

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[68] *See* 42 U.S.C. § 12102(1)(C); *see also* ADAAA § 4(a).
[69] *Eshelman*, *supra* note 26 (holding that the employer bears the burden of showing an impairment is both transitory and minor); *see also* H.R. Rep. No. 110–730, pt. 2, at 17–18 (2008).
[70] 42 U.S.C. § 12102(3)(B); *Eshelman*, *supra* note 26 at 247–248.
[71] *See Matias v. Terrapin House, Inc.*, No. 5:21-cv-02288, 2021 U.S. Dist. LEXIS 176094, at *12–15 (E.D. Pa. Sept. 16, 2021); *see also* 42 U.S.C. § 12102(3)(B).
[72] *See* 42 U.S.C. § 12102(3)(B); *Eshelman*, *supra* note 26, at 246-48.
[73] Matias, *supra* note 71, at *9–15.
[74] *Id.* at 1–4.

good fit," the court found that the close temporal proximity between her disclosure and termination supported an inference that the decision was motivated by her perceived impairment.[75] In denying the employer's motion to dismiss, the court relied on federal guidance recognizing that COVID-19 may substantially limit major bodily functions, and rejected the employer's argument that COVID-19 is categorically transitory and minor.[76]

The court reached a different conclusion in *Champion v. Mannington Mills, Inc*., a 2021 decision from the Middle District of Georgia.[77] There, the employee was terminated after a brief parking-lot interaction with a coworker who had tested positive for COVID-19, and the employer citing her failure to promptly report the exposure.[78] The court held that treating an employee as temporarily infectious and requiring quarantine or brief leave does not, by itself, amount to regarding that employee as disabled.[79] Because nothing suggested that the employer believed that the employee would suffer ongoing limitations, the claim fell within the ADA's exception for impairments that are transitory and minor.[80]

Together, *Champion* and *Matias* illustrate the distinction courts have drawn between responding to short-term illnesses and acting on assumptions of a perceived long-term impairment.[81] In determining this distinction, courts appear to focus on several factors, including the timing of the adverse action, the employer's stated reason for the decision, and whether the

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[75] *Id.* at 9–12.
[76] *Id.* at 12–15.
[77] *Champion v. Mannington Mills, Inc.*, 538 F. Supp. 3d 1344, 1346–54 (M.D. Ga. 2021).
[78] *Id.* at 1345–46.
[79] *Id.* at 1349–50.
[80] *Id.*
[81] *See Champion*, *supra* note 77, at 1349-1350; *Matias*, *supra* note 71, at *14–18; *see also Moody v. MidMichigan Med. Ctr. Midland*, 704 F. Supp. 3d 772, 780 (E.D. Mich. 2023); *West v. Ohio State Univ.*, 2024-Ohio-1484 (Ct. Cl.); *Shklyar v. Carboline Co.*, 616 F. Supp. 3d 920, 926 (E.D. Mo. 2022).

employer treated the employee as having ongoing limitations rather than a short-term condition.[82] While no single factor is dispositive, these factors help distinguish legitimate responses to illness from discrimination based on a perceived disability.

For Long COVID claimants, this distinction is especially important. The analysis does not depend on the medical accuracy of the diagnosis, but on whether the employer perceived the employee as having a substantial and ongoing impairment.[83] When employers act on assumptions about ongoing health-related limitations rather than treating the condition as a short-term illness, they risk liability under the ADA's regarded as prong.[84]

B. The Otherwise Qualified Standard

Even when Long COVID qualifies as a disability, ADA protection extends only to employees capable of performing the essential functions of their position with or without a reasonable accommodation.[85] For many Long COVID claimants, this often becomes the most contested element of the claim.[86] Symptoms such as fatigue, cognitive impairment, and respiratory limitations often fluctuate unpredictably, complicating assessments of both present and future work capacity.[87] Therefore, courts must evaluate not only what an employee can do at the time of the adverse employment action, but also whether a reasonable accommodation could restore the employee's ability to perform the essential duties of the position within a foreseeable period.[88]

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[82] *Matias*, *supra* note 71, at *12–15 (termination on day of disclosure supporting inference of perceived ongoing impairment); *Champion*, *supra* note 77, at 1349–50 (quarantine and brief leave insufficient to establish regarded-as coverage); *see also Eshelman*, *supra* note 26, at 264–48 (employer bears burden of establishing impairment is both transitory and minor).
[83] *See Matias*, *supra* note 71, at *16–17; *Champion*, *supra* note 77, at 1349.
[84] *See* 42 U.S.C. § 12102(3)(A); *Matias*, *supra* note 71, at *17–18.
[85] 42 U.S.C. § 12111(8); *see Barnett*, *supra* note 35, at 396.
[86] 42 U.S.C. § 12111(8); *Barnett*, *supra* note 35, 401–02.
[87] 29 C.F.R. § 1630.2(j)(1)(vii).
[88] 42 U.S.C. § 12111(8); 29 C.F.R. § 1630.2(m); 29 C.F.R. pt. 1630 app. § 1630.2(o); *Barnett*, *supra* note 35, at 401–02.

When no accommodation would restore that ability, courts have generally concluded that the employee is not otherwise qualified. In *Walls v. Lee Memorial Health System*, a 2025 decision from the Middle District of Florida, the court found that an emergency-room physician with Long COVID was not a qualified individual because she could not perform the essential clinical duties of her role with or without reasonable accommodations.[89] After taking more than 27 weeks of medical leave, she requested either additional indefinite leave or reassignment to a non-patient-facing role for recurring symptom flare-ups.[90] The court granted summary judgment for the employer, emphasizing that the employee could not identify a definite return-to-work date and had not shown the existence of a vacant position for which she was qualified.[91] Because neither requested accommodation offered a realistic path toward resuming the essential functions of the position, the ADA did not require the employer to continue her employment indefinitely.[92]

Importantly, *Walls* does not suggest that employees with Long COVID are categorically unqualified for ADA protection.[93] Rather, it reflects the ADA's longstanding focus on functional capacity.[94] Employees are protected when they can show that finite leave, modified duties, temporary schedule adjustments, or other reasonable accommodations would allow them to continue performing the essential functions of their role.[95] The ADA does not require employers

[89] *Walls v. Lee Mem'l Health Sys.*, No. 2:23-cv-150-JES-KCD, 2025 U.S. Dist. LEXIS 109587, at *18–22 (M.D. Fla. Jan. 21, 2025).
[90] *Id.* at *6–9.
[91] *Id.* at *23–26.
[92] *Id.* at *27–29.
[93] *Walls*, *supra* note 89, at *18–29.
[94] *Walls*, *supra* note 89, at *26–29; 42 U.S.C. § 12102(4)(A); 29 C.F.R. § 1630.2(j)(1)(i)–(ii)
[95] 42 U.S.C. § 12112(b)(5)(A); *Barnett*, *supra* note 35, at 401–02.

to permanently excuse core job functions or hold positions open indefinitely when there is no reasonable prospect of the employee returning to work.[96]

Thus, the otherwise qualified standard reinforces the balance at the heart of the ADA.[97] Employers are entitled to expect that essential job duties will be performed, while employees are entitled to reasonable accommodations that give them a realistic opportunity to meet those expectations.[98] In the Long COVID context, where symptoms may fluctuate and recovery timelines are often uncertain, the critical question is whether a time-limited, medically supported accommodation creates a realistic path back to performance, not whether the employee can perform their duties perfectly or immediately.[99]

C. Reasonable Accommodations and the Interactive Process

Once an employee is deemed otherwise qualified, the ADA requires employers to provide reasonable accommodations that would enable the employee to perform the essential functions of the position.[100] That obligation is both interactive and individualized.[101] Employers may not categorically refuse or rely on generalized assumptions about a condition; they must engage in a good-faith interactive process to determine whether an accommodation can address the employee's limitations without unduly disrupting business operations.[102] In the Long COVID context, that

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[96] 42 U.S.C. § 12111(8); *Barnett*, *supra* note 35, at 401–02; *EEOC v. Ford Motor Co.*, 782 F.3d 753, 761 (6th Cir. 2015) (en banc); *Walls*, *supra* note 89, at *27–29.
[97] *Barnett*, *supra* note 35, at 400–02; *Davis*, *supra* note 36, at 406.
[98] 42 U.S.C. §§ 12111(8), 12112(b)(5)(A); *Barnett*, *supra* note 35, at 401–02; *Davis*, *supra* note 36, at 406.
[99] 29 C.F.R. § 1630.2(j)(1)(vii); Long COVID Guidance, *supra* note 9; *Walls*, *supra* note 89, at *26–29; *see also* King, *supra* note 10.
[100] 42 U.S.C. § 12112(b)(5)(A); *Barnett*, *supra* note 35, at 396.
[101] 29 C.F.R. § 1630.2(o)(3).
[102] Taylor, *supra* note 26, at 311–12 (3d Cir. 1999); *Barnett*, *supra* note 35, at 401–02.

process is especially important because symptoms often fluctuate over time, making accommodation needs less predictable than those associated with more stagnant conditions.[103]

Long COVID accommodation claims generally fall into three categories: modified work schedules, remote or hybrid work arrangements, and finite periods of medical leave.[104] Each reflects a distinct dimension of Long COVID's functional impact. Fatigue and cognitive impairment often lead to requests for scheduling flexibility, while respiratory and neurological symptoms may support telework requests.[105] Meanwhile, intermittent, or short-term leave may be necessary to allow for treatment, recovery, or symptom management.[106] Whether any of these accommodations is reasonable depends on the employee's specific limitations, the nature of the position, and the impact on the employer's operations.[107]

1. Flexible and Modified Schedules as Reasonable Accommodations

Flexible scheduling can be a reasonable accommodation when changes to work hours would allow an employee to continue performing their job without creating an undue hardship for the employer. For employees experiencing Long COVID symptoms that fluctuate throughout the day such as fatigue, dizziness, or cognitive impairment, accommodations such as later start times, reduced hours, additional breaks, or limited in-person attendance may make the difference between remaining employed and being unable to work.[108] Courts have made clear, however, that

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[103] 29 C.F.R. § 1630.2(j)(1)(vii); Long COVID Guidance, *supra* note 9.
[104] *See*, *e.g.*, *Tornabene v. City of Blackfoot*, No. 4:22-cv-00180-AKB, 2024 U.S. Dist. LEXIS 213605, at *22–23 (D. Idaho Sept. 11, 2024); *Habeeb Ahmad v. N.Y. Univ.*, No. 1:22-cv-01248 (JLR), 2025 U.S. Dist. LEXIS 416894, at *31 (S.D.N.Y. Oct. 29, 2025); *Haschmann v. Time Warner Ent. Co.*, 151 F.3d 591, 601–02 (7th Cir. 1998).
[105] Long COVID Guidance, *supra* note 9; *Tornabene*, *supra* note 104, at *22–23; *Ahmad*, *supra* note 104, at *31.
[106] Long COVID Guidance, *supra* note 9; *Haschmann*, *supra* note 104, at 601–02.
[107] 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.2(o)(1)– (2); 29 C.F.R. § 1630.2(p); *Barnett*, *supra* note 35, at 402.
[108] Long COVID Guidance, *supra* note 9; 29 C.F.R. § 1630.2(j)(1)(vii).

scheduling flexibility must support the employee's ability to perform the core responsibilities of the position.[109] The ADA does not require accommodations that would eliminate essential duties or create indefinite operational uncertainty.[110]

Courts have generally allowed scheduling-based accommodation claims to proceed when the requested adjustments are tied to documented limitations and would enable the employee to continue performing their job. For example, in *Tornabene v. City of Blackfoot*, a 2024 decision from the District of Idaho, the court held that modified schedules and reduced in-person responsibilities could constitute reasonable accommodations for an employee with Long COVID when supported by medical documentation and ongoing employer communication.[111] Tornabene, the City's Human Resources Director, developed chronic fatigue, breathing difficulties, and vertigo and requested to continue working remotely along with adjusting her schedule.[112] Although the City initially accommodated those requests, it later determined that full-time, in-person presence was essential and terminated her employment.[113] The court emphasized that employers must engage in an individualized, good-faith assessment of accommodation requests rather than categorically rejecting accommodations that may allow an employee to perform the essential functions.[114]

By contrast, courts have been less receptive when plaintiffs fail to explain how a rigid schedule actually affects their ability to work. For example, in *Holtz v. Board of Trustees of the University of Arkansas*, a 2025 decision from the Eastern District of Arkansas, the court dismissed

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[109] *See* 42 U.S.C. § 12111(8).
[110] 29 C.F.R. § 1620.2(o)(2)(ii); *Walls*, *supra* note 89.
[111] *Tornabene*, *supra* note 104, at *19–20.
[112] *Id.* at *4.
[113] *Id.* at *7–8.
[114] *Id.* at *16–18.

a complaint brought by an employee who alleged that a newly imposed on-campus schedule exacerbated her fibromyalgia, chronic fatigue syndrome, and Long COVID but failed to connect the scheduling requirement to a concrete workplace disadvantage.[115] Although the university administrator had previously been permitted flexible hours, the court found her complaint insufficient for failing to show how the revised schedule interfered with her ability to perform her job or deprived her of benefits available to others.[116] Without allegations connecting scheduling rigidity to tangible functional harm, the claim could not proceed.[117]

Together, *Tornabene* and *Holtz* illustrate an important principle. Scheduling modifications are more likely to be considered reasonable when employees can demonstrate a clear connection between rigid work schedules and their functional limitations.[118] Conversely, claims that rest on scheduling preferences alone, without showing how the requested flexibility would address work-related limitations, are unlikely to survive.[119]

2. Remote Work and the Reassessment of Essential Functions

Remote or hybrid work may qualify as a reasonable accommodation when an employee can perform the essential functions of the position without being physically present at the workplace.[120] However, courts generally defer to an employer's judgment to determine whether

[115] *Holtz v. Bd. of Trs. of the Univ. of Ark.,* No. 4:24-cv-00511-LPR, 2025 U.S. Dist. LEXIS 119498, at *1–6 (E.D. Ark. Mar. 14, 2025).
[116] *Id.* at *6–7.
[117] *Id.* at *11–13.
[118] *Tornabene*, *supra* note 104, at *14–21.
[119] *Holtz*, *supra* note 115, at *11–13.
[120] *See* 42 U.S.C. § 12111(9); 29 C.F.R. § 1630.2(o)(1)-(2); *What You Should Know About COVID-19 and the ADA*, *supra* note 9 (recognizing telework as a potential reasonable accommodation and noting expanded use of remote work during the pandemic); *Ahmad*, *supra* note 104, at *6–7, *31, *34–36.

in-person attendance is genuinely necessary for the role.[121] For employees with Long COVID, telework can be particularly important because lingering symptoms may make commuting or sustained in-person attendance difficult. Additionally, the widespread adoption of remote work during the COVID-19 pandemic has prompted courts to examine more closely whether physical presence is truly essential to a position or merely reflects pre-pandemic workplace practices.

This evolving approach is reflected in *Habeeb Ahmad v. New York University*, a 2025 decision from the Southern District of New York. [122] There, the court upheld a jury verdict finding that NYU was required to meaningfully evaluate whether remote or hybrid work arrangements would allow an employee with Long COVID to perform his essential job functions.[123] Dr. Ahmad, an associate professor and physician with severe post-COVID neuropathy and balance issues, requested permission to perform his teaching, research, and administrative duties remotely, noting that only limited parts of his role required in-person attendance.[124] NYU denied the request without engaging in the interactive process and terminated his employment.[125] The court emphasized that employers may not categorically reject telework based solely on assumptions or pre-pandemic norms, and must instead conduct an individualized assessment of whether remote work would allow the employee to perform the essential duties of the position.[126]

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[121] *See* 29 C.F.R. § 1630.2(n)(2)(i)–(ii); *Ford Motor Co.*, *supra* note 96, at 761; *EEOC v. Yellow Freight Sys., Inc.*, 253 F.3d 943, 948–50 (7th Cir. 2001) (en banc).
[122] *Ahmad*, *supra* note 104, at *33–41 (upholding jury verdict for disability discrimination and finding sufficient evidence that employer failed to conduct a good-faith individualized assessment of remote work accommodation request).
[123] *Id.* at *50–51.
[124] *Id.* at *3–7, *22–24 (noting plaintiff's testimony that clinical duties compromised only ten to fifteen percent of his actual responsibilities, with the remainder consisting or education, research, and administration).
[125] *Id.* at *46–47.
[126] *Id.* at *39–40, *53–58 (upholding jury's good-faith assessment finding based on evidence that NYU denied plaintiff's request without live interaction, failed to consult plaintiff's physician or colleagues, and did not consider alternatives in good faith).

Importantly, *Ahmad* does not establish a general right to remote work.[127] Instead, it reinforces that employers are obligated to meaningfully evaluate telework as a potential accommodation when the nature of the position makes remote work feasible.[128] Physical presence remains a legitimate essential function when a job genuinely requires it.[129] What the ADA prohibits is the automatic assumption that every position must be performed in person simply because it traditionally has been.[130]

3. Finite Leave vs. Indefinite Leave

Long COVID may require intermittent or short-term medical leave for treatment, rehabilitation, or symptom management.[131] Under the ADA, courts generally distinguish between finite leave, which is often viewed as reasonable because it has a defined duration and a likelihood of restoring work capacity, and indefinite leave, which is generally unreasonable because it lacks a clear endpoint and creates operational uncertainty for employers.[132]

For example, in *Haschmann v. Time Warner Entertainment Co., L.P.*, a 1998 Seventh Circuit decision, the court rejected the employer's argument that regular attendance is always an essential function and recognized that employees with episodic conditions may require temporary flexibility to remain employed.[133] Haschmann, a vice president of finance with lupus experienced

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[127] *Ahmad*, *supra* note 104, at *31–32.
[128] *Ahmad*, *supra* note 104, at *33–41; 29 C.F.R. § 1630.2(o)(3); *Taylor*, *supra* note 26, at 311–12.
[129] 29 C.F.R. § 1630.2(n)(1); *Ford Motor Co.*, *supra* note 96, at 761; *Ahmad*, *supra* note 104; see *also What You Should Know About COVID-19 and the ADA*, *supra* note 9.
[130] *Id.* at *36–40.
[131] *See Haschmann*, *supra* note 104, at 600–01; *What You Should Know About COVID-19 and the ADA*, *supra* note 9.
[132] *See Haschmann*, *supra* note 104, at 600–01; *Severson v. Heartland Woodcraft, Inc.*, 872 F.3d 476, 481 (7th Cir. 2017) (holding that indefinite leave is not a reasonable accommodation under the ADA).
[133] *Haschmann*, *supra* note 104, at 591–602.

episodic flare-ups that temporarily impaired her ability to work. [134] After returning from approved medical leave on a gradual schedule, she suffered a relapse and requested additional short-term leave, prompting her employer to terminate her rather than engaging in further dialogue.[135] Although *Haschmann* did not involve Long COVID, its reasoning applies naturally to it because it is also a condition characterized by fluctuating symptoms and periods of relapse.[136]

More recently, *Gerard v. 1199 National Benefit Funds*, a 2025 Southern District of New York decision, demonstrates how courts have applied similar principles in the Long COVID context.[137] Gerard, who experienced lingering post-COVID fatigue and cardiovascular complications, requested a brief, physician-recommended delay in complying with a workplace vaccination requirement while continuing to work remotely.[138] Rather than engaging in the interactive process or evaluating the request, the employer placed him on leave and later terminated his employment.[139] The court held that a time-limited, medically supported accommodation request could support a viable failure-to-accommodate claim and emphasized that strict policy enforcement does not excuse an employer's obligation to engage in good-faith dialogue with employees seeking accommodations.[140]

Together, *Haschmann* and *Gerard* illustrate that leave-based accommodations are more likely to be considered reasonable when they are medically supported, time-limited, and expected to help the employee return to work.[141] The distinction between reasonable finite leave and

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[134] *Id.* at 593–95.
[135] *Id.* at 595–96.
[136] *See* 29 C.F.R. § 1630.2(j)(1)(vii); Long COVID Guidance, *supra* note 9.
[137] Gerard v. 1199 Nat'l Benefit Funds, No. 22-cv-9796, 2025 U.S. Dist. LEXIS 219759, at *18–21 (S.D.N.Y. Nov. 18, 2025); *Haschmann*, *supra* note 104, at 600–02.
[138] *Gerard*, *supra* note 138, at *4–6.
[139] *Id.* at *7–8.
[140] *Id.* at *19–21; 29 C.F.R. § 1630.2(o)(3); *Taylor*, *supra* note 26, at 311–12.
[141] *Haschmann*, *supra* note 104, at 600–02; *Gerard*, *supra* note 136, at *18–21.

unreasonable indefinite leave ultimately comes down to a simple question: whether the requested accommodation creates a realistic path back to the performance of the essential functions of the job.[142]

IV. Employer Defenses Under the ADA

Even when an employee establishes that they have a disability and have been denied a reasonable accommodation, an employer may avoid liability by invoking the defenses of undue hardship and direct threat.[143] In contrast to the employee-focused analyses discussed above, these defenses place the burden solely on the employer and require more than generalized concerns or assumptions about an employee's condition.[144]

A. Undue Hardship: Limits on Accommodation Based on Significant Difficulty or Expense

The ADA does not require employers to provide accommodations that would impose an undue hardship, defined as significant difficulty or expense assessed in light of the employer's resources, workforce size, operational needs, and the nature of the requested accommodation.[145] Because undue hardship is an affirmative defense, the employer bears the burden of proving it, and courts evaluate it on a case-by-case basis, considering both financial costs and nonfinancial factors like workflow disruption, staffing implications, and the impact on essential operations.[146]

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[142] *Haschmann*, *supra* note 104, at 600–02; *Severson*, *supra* note 132, at 481; *Barnett*, *supra* note 35, at 401–02; *Walls*, *supra* note 89, at *26–29.
[143] 42 U.S.C. §§ 12112(b)(5)(A), 12113(a); *Raytheon Co. v. Hernandez*, 540 U.S. 44, 50–52, 124 S. Ct. 513 (2003); *Barnett*, *supra* note 35, at 401–02.
[144] 29 C.F.R. §§ 1630.2(p)(1)– (2), 1630.2(r); *Barnett*, *supra* note 35, at 402; *Echazabal*, *supra* note 37, at 86.
[145] 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.2(p)(1)–(2).
[146] 42 U.S.C. § 12112(b)(5)(A)–(B); *Barnett*, *supra* note 35, at 402; *Cehrs v. Ne. Ohio Alzheimer's Research Ctr.*, 155 F.3d 775, 781–82 (6th Cir. 1998) (holding that undue hardship must be evaluated in light of the employer's particular circumstances rather than abstract assumptions).

Even where a specific accommodation proves unduly burdensome, employers are obligated to explore alternatives that could achieve the same result at a lower cost with less disruption.

Courts have consistently rejected generalized assertions of inconvenience, coworker resentment, or reduced morale as grounds for undue hardship.[147] This defense is most likely to succeed when an accommodation would genuinely disrupt essential operations, compromise safety, or create significant staffing difficulties, particularly in roles requiring continuous coverage or in-person performance. Even then, employers must support those concerns with concrete evidence rather than speculation.[148]

In *Helton v. CSX Transportation, Inc.*, a 2025 decision from the Western District of Kentucky, the court held that an employer failed to establish undue hardship because it offered no evidence that the accommodation would actually disrupt operations.[149] Helton, a locomotive engineer with chronic lymphedema sought accommodations to avoid painful "deadheading" travel in shared vans.[150] In response, the employer argued that the request conflicted with operational needs and a collective bargaining agreement.[151] However, the court found no evidence of actual disruption and held that speculative concerns, however sincerely asserted, were insufficient to satisfy the employer's burden.[152]

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[147] *Barnett*, *supra* note 35, at 403; *Walton*, *supra* note 35, at 672.
[148] *Ford Motor Co.*, *supra* note 96, at 761–63; *Aston v. Tapco Int'l Corp.*, 631 F. App'x 292, 298 (6th Cir. 2015) (holding that undue hardship may be established where prolonged uncertainty would disrupt essential operations); *Kleiber v. Honda of Am. Mfg., Inc.*, 485 F.3d 862, 871 (6th Cir. 2007) (holding that failure to consider alternative accommodations may itself violate the ADA).
[149] *Helton v. CSX Transp., Inc.*, Civil Action No. 3:22-cv-00199-DJH-CHL, 2025 U.S. Dist. LEXIS 219315, at *11–12 (W.D. Ky. July 2, 2025).
[150] *Id.* at *4–7.
[151] *Id.* at *7–10.
[152] *Id.* at *9–11.

Applied to Long COVID, *Helton* reinforces the principle that employers cannot deny accommodations such as temporary remote work, modified duties, or finite medical leave based on assumptions about potential disruption without concrete evidence of meaningful operational disruption.[153] The fluctuating, episodic nature of Long COVID may often weigh against an undue hardship finding because many accommodations are temporary or intermittent rather than permanent.[154] The ADA therefore requires employers to consider the employee's specific circumstances rather than rely on generalized concerns about the condition itself.[155]

B. Direct Threat: Exclusion Based on Significant Risk of Substantial Harm

The ADA also permits employers to exclude an employee who pose a direct threat, defined as a significant risk of substantial harm to the employee or others that cannot be eliminated through a reasonable accommodation.[156] Like undue hardship, the direct-threat defense requires an individualized assessment grounded in reasonable medical judgment and the best available objective evidence.[157] Speculation, paternalistic assumptions, and generalized safety concerns are legally insufficient.[158]

In the Long COVID context, this defense is unlikely to apply in most cases. Long COVID is a non-contagious post-viral condition that poses no inherent risk to coworkers or the public.[159] Its most common symptoms, such as cognitive dysfunction and respiratory limitations, primarily

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[153] *Id.* at 11–12; *Barnett*, *supra* note 35, at 401–02.
[154] 29 C.F.R. § 1630.2(j)(1)(vii); Long COVID Guidance, *supra* note 9.
[155] 29 C.F.R. § 1630.2(o)(3); *Barnett*, *supra* note 35, at 401–02; *Walls*, *supra* note 89, at *23–29.
[156] 42 U.S.C. §§ 12111(3), 12113(b); 29 C.F.R. § 1630.2(r).
[157] *Bragdon*, *supra* note 38, at 649–50; *Echazabal*, *supra* note 37, at 86.
[158] *Bragdon*, *supra* note 38, at 649–50.
[159] *Echazabal*, *supra* note 37, at 86; *EEOC v. Wal-Mart Stores, Inc.*, 477 F.3d 561, 571–72 (8th Cir. 2007) (rejecting reliance on generalized safety concerns absent objective evidence of actual risk).

affect the employee's own abilities rather than creating external safety hazards.[160] As a result, an employer would face significant difficulty in establishing this defense based solely on transmission concerns or assumptions about an employee's physical vulnerability.[161]

In safety-sensitive roles, symptoms such as severe cognitive impairment, balance problems, or sudden dizziness could potentially create a genuine risk of harm. Even then, the employer must conduct an individualized assessment and determine whether a reasonable accommodation could reduce or eliminate the risk before resorting to exclusion.[162] This defense is intended to address real safety risks supported by objective evidence, not employment decisions driven by fear, assumptions, or misunderstandings about a medical condition.[163]

V. Conclusion

Long COVID emerged as both a public health crisis and a legal challenge. It exposed a workforce struggling with lingering symptoms and uncertain recovery timelines, while testing a body of disability law that had never been applied to a condition so widespread, variable, and difficult to define. Yet the ADA, enacted decades before Long COVID emerged, has proven capable of addressing these challenges.[164] The statute's focus on individualized assessment does not depend on a precise diagnosis, a stable symptom profile, or a permanent condition.[165] Instead, it asks a more practical question: how does the condition affect the employee's ability to function in everyday life and perform their job?

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[160] Long COVID Guidance, *supra* note 9; *Bragdon*, *supra* note 38, at 649–50.
[161] *Echazabal*, *supra* note 37, at 86; *Bragdon*, *supra* note 38, at 650.
[162] 42 U.S.C. § 12113(b); 29 C.F.R. § 1630.2(r).
[163] *Bragdon*, *supra* note 38, at 649–50; *Echazabal*, *supra* note 37, at 85–65; *see also* H.R. Rep. No. 110–730, pt. 2, at 17–18 (2008).
[164] *See* Long COVID Guidance, *supra* note 9; King, *supra* note 10; Guevara, *supra* note 10.
[165] 42 U.S.C. § 12102(4)(A); ADAAA § 2(b), Pub. L. No. 110-325, 122 Stat. 3553, 3554 (2008); 29 C.F.R. § 1630.2(j)(1)(i)–(ii).

This paper has shown how that question operates throughout the ADA's framework. Long COVID may qualify as a disability under any of the statute's three disability prongs, even though the condition's evolving medical understanding and lack of standardized diagnostic criteria can create substantial evidentiary hurdles.[166] The otherwise qualified standard requires courts to look beyond recovery uncertainty and determine whether a finite, medically supported accommodation offers a realistic path back to performing essential job functions.[167] The accommodation framework requires employers to engage in an ongoing, good-faith interactive process rather than rely on categorical assumptions about what an employee with Long COVID can or cannot do.[168] The undue hardship and direct-threat defenses provide protection only when supported by concrete evidence and individualized assessment, not speculation about a condition that remains medically complex and highly variable.[169]

What emerges from this analysis is not the need for a new legal framework, but confirmation that the existing one remains effective. The ADAAA's instruction to construe disability coverage broadly and to focus on whether discrimination occurred was designed for precisely these kinds of cases.[170] Although Long COVID tests the boundaries of traditional disability doctrine, it does not fall outside of its coverage. When courts apply the ADA as written,

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[166] *See Brown*, *supra* note 47, at 1177–78; *Rawling*, *supra* note 50, at *10–14; *Earl*, *supra* note 52, at 302–07; *Steed*, *supra* note 63, at *18–23; *Matias*, *supra* note 71, at *12–15; *Champion*, *supra* note 77, at 1349–50; Wisk et al., *supra* note 22.
[167] *Walls*, *supra* note 89, at *26–29; *Barnett*, *supra* note 35, at 401–402; 42 U.S.C. § 12111(8).
[168] 29 C.F.R. § 1630.2(o)(3).
[169] *Helton*, *supra* note 149, at *9-11; *Echazabal*, *supra* note 37, at 86; *Bragdon*, *supra* note 38, at 649–650.
[170] ADAAA § 2(b), Pub. L. No. 110–325, 122 Stat. 3553, 3554 (2008); *Summers v. Altarum Inst., Corp.,* 740 F.3d 325, 329–330 (4th Cir. 2014) (explaining that Congress enacted the ADAAA to reject unduly restrictive interpretations of disability and refocus the inquiry on discrimination); King, *supra* note 10.

the statute provides a workable, balanced framework for addressing Long COVID claims while protecting the legitimate interests of both employees and employers.

Several important questions remain unresolved. Long COVID disparate-treatment claims are still relatively undeveloped, and courts have only begun to address how such claims should be analyzed when they intersect with preexisting performance concerns.[171] As the scientific understanding of Long COVID continues to evolve, courts will face new questions over medical evidence, expert testimony, and proof of functional limitations which will shape the next generation of Long COVID litigation.[172]

For now, the ADA provides what employees and employers need most, a flexible, evidence-based framework capable of responding to conditions that do not fit neatly into traditional categories.[173] It is unlikely that Long COVID will be the last condition to challenge existing assumptions about disability law, and how courts respond to it now will shape not only the future of Long COVID litigation but also how disability law adapts to emerging conditions in the years ahead.[174]

[171] *See Guevara*, *supra* note 10; King, *supra* note 10.
[172] Wisk et al., *supra* note 22; Fineberg et al., *supra* note 16.
[173] 42 U.S.C. § 12102(b); Long COVID Guidance, *supra* note 9; Francis & Stein, *supra* note 11.
[174] King, *supra* note 10; *Guevara*, *supra* note 10; *see also* Francis & Stein, *supra* note 11.