DMEC 2026 COMPLIANCE CONFERENCE

ADA Pitfalls: Common Mistakes You're Probably Making (and How to Fix Them)

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“My employer said I couldn’t administer my IV medications at my desk.

So I found a new job.”

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What I did next

→I started **Chronically Capable** — a job platform with more than 100K candidates with disabilities. If employers wouldn't accommodate people like me, I'd help us find the ones who would.

→Working with enterprises, I kept seeing the same gap: companies wanted to hire people with disabilities but had no infrastructure to **keep** them. Getting the job is only half the problem.

→That became **Disclo** — an end-to-end ADA accommodation platform used by Panera, Reddit, BambooHR, Contra Costa County, and more. Thousands of cases. Seeing the same failures, over and over, at organizations with sophisticated HR teams who believed they had it handled.

What I saw at scale

FMLA / Leave

- ✓ Standardized process
- ✓ Clear timelines and triggers
- ✓ Outsourced to TPAs with established workflows
- ✓ Audited regularly

ADA Accommodations

- ✗ Lived in email, spreadsheets, and gut instinct
- ✗ No standard process — every manager handled it differently
- ✗ Nobody tracking it, nobody auditing it
- ✗ A human on the other end of every unanswered request

Today I'm going to show you what those gaps look like (and what they cost).

THE LANDSCAPE

The accommodation environment has shifted.

Volume has changed

- Accommodation request volume has been climbing since 2020 and **accelerated sharply with RTO mandates**
- Enterprise organizations managing a predictable caseload are now fielding surges they weren't staffed or structured for
- The dominant categories have shifted: **mental health, neurodiversity, and invisible/chronic conditions** now drive the majority of volume and are the hardest cases to process in systems designed for physical limitations

10x

Accommodation volume increase during RTO rollouts at enterprise companies

The Gen Z factor

- The newest workforce entrants grew up with **IEPs, 504 plans, extended time, and testing accommodations as standard** — not stigmatized, normalized

- They arrive expecting the workplace to function the same way.
  - This is not entitlement. It's a **disclosure rate shift** your process wasn't designed for!

- Higher disclosure = higher volume = higher scrutiny of every decision you make

The legal surface is expanding

- **PWFA (2023):** Interactive process obligations for pregnant workers that don't map cleanly onto existing ADA infrastructure — different undue hardship standard, broader covered conditions

- **State law is moving fast:** Rhode Island now explicitly recognizes menopause as a potential basis for workplace accommodations. Other states are following.

- If your process isn't designed to flex to emerging covered conditions, you're already behind

48 ADA cases filed by the EEOC in FY2024

These represent **nearly half** of all EEOC litigation in 2024

$700M was secured for discrimination victims — the highest in recent history

The through-line

- The organizations getting into trouble are **not the ones ignoring ADA**
  - They're the ones whose process made sense five years ago and **hasn't kept up**

Let me show you what that looks like…

PITFALL #1

The Infrastructure Gap

What we hear

- “We track it in [our workflow software]”
- “It’s in our [HRIS] — everything is in [HRIS]”
- “We have a shared mailbox and a spreadsheet for overflow”

The real problem

- Enterprise organizations rarely have **no system**
  - They have the **wrong system**

- HRIS system notes fields, and case management tools capture **activity**, not the legal milestones of an ADA interactive process

- When the EEOC asks for documentation of good-faith engagement, a ticket timestamp doesn't tell that story

The case: 30,000 employee healthcare org

- Active accommodation case open for **three to five years** with no locatable documentation

- The interactive process had happened — across email threads, a leave system, and a manager's HRIS notes. **No defensible record.**

- 30,000 employee enterprise using a compliance tool that, by their own team's admission, was "not meant for" ADA case management

What the law requires

- The ADA doesn't prescribe a specific system, but it requires **documented good faith** at every step

- **EEOC v. American Airlines (2025):** Kept an employee on involuntary unpaid leave for nearly four years rather than engaging meaningfully with her accommodation request

- The EEOC's position: employers violate worker rights when they **unreasonably delay** accommodations, not just when they deny them

EEOC v. American Airlines (2025)

4 years on unpaid leave. No interactive process. Suit filed.

What good looks like

- Every request has a **dedicated, ADA-specific case record,** with timestamped touchpoints from request to decision
- Medical data separated from case notes, case notes separated from personnel files
- A paper trail that could be handed to an EEOC investigator tomorrow

PITFALL #2

Managers in the Decision Layer

What we hear

- “Our HRBPs coordinate, but managers weigh in on approval”
- “The manager worked it out directly with the employee”
- “We only loop in HR if it gets complicated”

The most dangerous pattern

- This is the **most legally dangerous structural mistake** we see (and the most common at enterprises with decentralized HR)

- Managers with no legal training making approval and denial decisions, inconsistently, across the same organization

- Inconsistency = **disparate treatment**.
  - One manager approves remote work for anxiety.
  - Another denies it for the same condition.
  - That delta is the lawsuit.

The case: Law firm, 3,000 employees

- Requests arriving through multiple channels — directly to managers, to benefits, to ER — with **informal approvals happening entirely outside HR's visibility**
- The compounding failure: **performance issues triggering accommodation requests**. A manager starting a PIP while an employee has an undocumented accommodation need.
- That sequence is plaintiff attorney gold — adverse action on record, accommodation request invisible

What the law requires

- Managers may be told about **necessary work restrictions and accommodations only** — not diagnosis, not prognosis

- The **employer** makes the accommodation determination — not the supervisor. Ad hoc manager decisions are not an interactive process.

- **TSYS/Global Payments (EEOC conciliation, 2024):** Required to train all US managers and HR personnel on ADA, implement formal policy, and submit to ongoing EEOC monitoring

The EEOC will monitor every future request.

TSYS/Global Payments — 2024 conciliation. The consequence of managers who didn't know what they were doing.

What good looks like

- Managers provide **functional input only**: here's what the role requires, here's what I can operationally support

- HR or a dedicated accommodation function **owns every decision,** regardless of how the request surfaces

- Every request — even the ones a manager "resolved" informally — gets routed into a documented process

The PWFA dimension

- Under PWFA, the interactive process obligation exists **independently** of whether a manager thinks a request is reasonable

- Pregnancy-related accommodation requests routed through managers are doubly exposed
  - PWFA has stricter standards and less undue hardship defense

- If your manager escalation protocol doesn't explicitly cover PWFA, it has a gap

PITFALL #3

Over-Medicalizing the Process

What we hear

- “We require medical verification for every single case just to be safe”
- “We asked for their full medical records because we need to understand the situation”
- “Our TPA collects the documentation and mirrors it to us”

The problem with "just to be safe"

- Blanket verification requirements are one of the **most litigated ADA missteps**
  - Well-intentioned practice creating direct legal exposure

- The ADA permits medical inquiry **only when the disability or need for accommodation is not obvious or already known**

- What you need: evidence of **functional limitations**
  - Not a diagnosis, not a prognosis, not a medical history

The case: 260 employee org, 2 EEOC investigations

- Medical verification requested on **every single case** regardless of whether disability was obvious
- Two EEOC investigations in the **same year**
- The line between those two facts is not a coincidence

What the law requires

- **EEOC v. Allegiance Health Management (2025):** Sued for requiring employees to provide protected medical information likely to reveal a disability — beyond what the ADA permits
- **EEOC v. Cummins Power:** Required an overly broad medical release — disability-related inquiries "not job-related or consistent with business necessity"
- Mental health and neurodiversity cases require particular care — documentation norms for anxiety or ADHD differ significantly from physical limitations

What good looks like

- **Obvious disability:** no documentation needed
- **Non-obvious disability or unclear connection:** targeted functional inquiry only — what does this person need to do their job?
- The question is never "what is wrong with them?" — always "what do they need to perform their essential functions?"

PITFALL #4

The FMLA Cliff

What we hear

- “Their FMLA ran out so we closed the case”
- “FMLA is outsourced, ADA is in-house — they’re separate”
- “We only get involved in ADA if someone asks for more leave after FMLA”

FMLA exhaustion
is not an ADA off-ramp.

The case: Large hospital system

- Leave vendor approved intermittent leave requests but tracking failed entirely when FMLA exhausted — **no automated handoff to ADA**
- No mechanism to ask: does this employee have an ADA accommodation need? The answer, in many cases, was yes. **Nobody asked.**
- RTO dimension: employees whose FMLA extensions run out then request continued remote work as an ADA accommodation — if workflows don't connect, that request gets lost

What the law requires

- FMLA and ADA are **independent obligations** — the duty to engage in the interactive process exists whether the employee is eligible, exhausted, or denied
- Additional leave can itself be a reasonable accommodation — **but only if the process was initiated**
- **EEOC v. Walmart (2025):** After approved leave, Walmart failed to reinstate or reassign — placed on unpaid leave instead. EEOC: "Ongoing obligation to accommodate"

The PWFA layer

- Pregnancy-related conditions that don't meet FMLA eligibility thresholds **may still trigger PWFA obligations**
- If your handoff protocol only catches FMLA exhaustion, you're missing a growing category of cases entirely
- The question at every FMLA expiration, denial, and ineligibility: **does this employee have a disability or covered condition that requires accommodation?**

What good looks like

- A **formal, documented trigger** at every FMLA expiration, denial, and ineligibility determination
- The ADA accommodation question gets asked — and documented — **every single time**. Not assumed. Not delegated to the leave vendor.
- Leave and accommodation workflows connected — not siloed in separate systems with no handoff

PITFALL #5

Medical Information Where It Doesn't Belong

What we hear

- “We shared the diagnosis with the manager so they could be supportive”
- “The TPA sends us everything — we forward what’s relevant to the HRBP”
- “It’s all in the employee’s file — the doctor’s letter, our notes, everything”

The pattern

- One of the **clearest ADA violations** — and one most regularly committed by empathetic, well-meaning HR professionals
- Managers told diagnoses. Medical documentation stored in personnel files. Clinical records forwarded across HR business partner groups.
- We see it in the details: doctors providing "fancy letters" with full clinical detail that HR forwards to managers so they can "understand the situation"

What the law requires

- The ADA requires employers to treat any medical information from a disability-related inquiry as a **confidential medical record**
- Supervisors may be told about **necessary work restrictions and accommodations only** — not the condition, not the diagnosis
- Medical records must be stored **separately from personnel files** — not a restricted folder, a separate file

The diagnosis is not yours to share.

ADA confidentiality protects the employee (and it protects you).

The employer protection angle

- When managers know diagnoses, they make assumptions about **trajectory, future capability, and cost**
- Those assumptions contaminate performance decisions, promotion decisions, and termination decisions
- That contamination is the lawsuit and it's one you created by sharing information you weren't supposed to share

The emerging dimension

- Mental health, neurodiversity, and menopause (the conditions employees are **most anxious about disclosing)**

- Rhode Island's menopause accommodation law is a preview of where this is heading nationally
  - These conditions need the strongest firewall, not the weakest

- A visible, credible firewall determines whether employees use your process at all (or suffer quietly and eventually sue)

What good looks like

- Business stakeholders see **functional limitations and accommodation decisions only**
  - Never full medical records

- Medical information lives in a **separate, access-controlled file**
  - Not in the HRIS, not in the leave system, not in shared drives

- The firewall isn't just a legal requirement. It's the trust infrastructure that determines whether employees will disclose at all.

INTERACTIVE EXERCISE

ADA Compliance BINGO

How many of these does your organization have right now?
First to BINGO wins.

B	I	N	G	O
No ADA-specific case record	Managers approve or deny requests	No structured process for candidate accommodations	Medical docs in personnel file	Blanket verification, every case
No FMLA→ADA handoff trigger	Diagnosis shared with manager	Interactive process undocumented	No time-to-decision tracking	Requests handled in email only
Manager resolved it "informally"	No denial rate reporting	FREE ✓ You're here	No PWFA-specific workflow	TPA mirrors full records to HR
Medical info in HRIS / shared drive	No dedicated accommodation owner	ServiceNow or Workday = ADA system	No volume trend reporting	Leave and ADA fully siloed
Inconsistent outcomes across depts	Recruiters unsure how to handle candidate accommodation requests	No confidentiality notice to employee	Interview accommodations managed informally	No escalation if case goes quiet

How did you do?

0–4 marks	5–9 marks	10+ marks	Full BINGO
Strong foundation	**Moderate exposure**	**Systemic risk**	**You're not alone**
Specific vulnerabilities. Target and fix them. You're ahead of most rooms.	At least one of these will surface in a charge or audit. Real remediation work required.	Structural gaps normalized over time. Infrastructure change required — not just training.	More people in this room are here than you think. You have a clear starting point. Let's fix it.

Use your card as your H2 project list.

RED FLAG CHECKLIST

Eight questions to ask on Monday morning

01

Does every accommodation request have a dedicated, ADA-specific case record — separate from leave, your case management platform, and email?

02

Is medical documentation stored separately from personnel files, with access controls that exclude managers and business partners?

03

Are managers providing functional input only — or do they have approval or denial authority anywhere in your process?

04

Is there a formal, documented trigger for ADA interactive process at every FMLA expiration, denial, and ineligibility determination?

05

Is medical verification tiered — requested only when warranted, focused on functional limitations rather than diagnosis?

06

Is your interactive process documented at every substantive step — not just at the decision point?

07

Does your process have a distinct PWFA workflow — or are you routing pregnancy-related requests through your ADA process and hoping it's sufficient?

08

Can you pull a report showing time-to-decision, denial rates, accommodation types, and volume trends — and hand it to an investigator tomorrow?

CLOSING

The shift that matters

None of this is exotic

- These pitfalls are **structural.**
  - They happen because ADA accommodation management is hard to operationalize and almost never audited until something goes wrong.

- The landscape is expanding faster than most processes are evolving: Gen Z disclosure expectations, PWFA, state-level menopause law, and more to come

- The organizations that get ahead of this aren't waiting for a charge to audit their infrastructure

The employee side

- I built this because I was the employee whose employer didn't have the process.
- The managers were well-meaning. The HR team wasn't malicious. **The process failed.** That's fixable.
- Fixing it doesn't just reduce legal risk — it determines whether the people who need accommodations actually ask for them.

The most expensive accommodation process is the one you can't defend.

Questions?