

§ 84.75 Direct threat.

(a) This part does not require a recipient to permit an individual to participate in or benefit from the programs or activities of that recipient when that individual poses a direct threat.

(b) Except as provided in paragraph (c) of this section, in determining whether an individual poses a direct threat, a recipient must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

(c) In determining whether an individual poses a direct threat in employment, the recipient must make an individualized assessment according to the Equal Employment Opportunity Commission's regulation implementing title I of the Americans with Disabilities Act of 1990, at 29 CFR 1630.2(r).