



## Hearing Loss & the Law in the Workplace

As a person with a hearing loss, you cannot expect others, even your employer, to know what you need. In fact, the accommodations that are best for you in the workplace may not be the best for someone else. Only you can know what works for you. You must do your own homework before recommending what accommodations the employer should consider putting in place.

Likewise, you cannot expect your employer to know and understand what laws are in place to support you in the workplace, how they specifically apply to people with hearing loss, and what the limitations of those laws are. You must be the expert on hearing loss, and the expert on how you can reach your full potential as an employee.

### ***The Americans with Disabilities Act of 1990 (ADA)***

The Americans with Disabilities Act of 1990 (ADA), and amendments passed in 2007, is a major piece of civil rights legislation that has gone a long way to help people with disabilities gain equal access in many facets of life, from attending a public meeting to telecommunications, and yes, even including the workplace.

However the ADA is not the only law, and sometimes not the best law to provide protection in all circumstances. Some state laws are far stronger than the ADA. And despite what some people believe, it is not an affirmative action law: it does not mandate employers hire or promote a person with a disability before another more qualified person. The ADA does attempt to “level the playing field”. If all that is needed to become eligible for that job or that promotion is a volume controlled phone on your desk, the ADA provides for that accommodation so that you are in a better position to compete.

The US Equal Employment Opportunity Commission (EEOC) is a very good source of information about the ADA and other laws that apply in the workplace. Included on their website is a fact sheet on the Americans with Disabilities Act of 1990 (ADA) “Job Applicants and the Americans with Disabilities Act”:

Title I of the Americans with Disabilities Act of 1990 (ADA) makes it unlawful for an employer to discriminate against a qualified applicant or employee with a disability. The ADA applies to private employers with 15 or more employees and to state and local government employers. The U.S. Equal Employment Opportunity Commission (EEOC) enforces the employment provisions of the ADA.

The ADA defines an individual with a disability as a person who: (1) has a physical or mental impairment that substantially limits a major life activity, (2) has a record or history of a

substantially limiting impairment, or (3) is regarded or perceived by an employer as having a substantially limiting impairment.

An applicant with a disability, like all other applicants, must be able to meet the employer's requirements for the job, such as education, training, employment experience, skills, or licenses. In addition, an applicant with a disability must be able to perform the "essential functions" of the job the fundamental duties either on her own or with the help of "reasonable accommodation." However, an employer does not have to provide a reasonable accommodation that will cause "undue hardship," which is significant difficulty or expense.

For the complete Fact Sheet, visit the EEOC Web site: <http://www.eeoc.gov/facts/jobapplicant.html>

### ***Other applicable Laws***

The Job Accommodation Network is a service provided by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP). It's a wonderful resource for information about the laws and kinds of accommodations that may be used in the workplace. It has much information about the ADA, as well as other laws that provide protection to people with disabilities. JAN provides the following about other disability laws (<http://janweb.icdi.wvu.edu/links/other.htm>):

### ***Rehabilitation Act of 1973***

The Rehabilitation Act mandates non-discrimination by the federal government in its hiring and requires affirmative action, insures accessibility of buildings constructed with federal funds, mandates non-discrimination and affirmative action by federal contractors, prohibits discrimination in programs and activities, and requires standards for electronic and information technology.

### ***Age Discrimination in Employment Act (ADEA)***

The ADEA protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. The ADEA permits employers to favor older workers based on age even when doing so adversely affects a younger worker who is 40 or older. It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA. The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations, as well as to the federal government.

### ***Telecommunications Act***

Section 255 and Section 251(a)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, require manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are accessible to and usable by persons with disabilities, if readily achievable. These amendments ensure that people with disabilities will have access to a broad range of products and services such as telephones, cell phones, pagers, call-waiting, and operator services that were often inaccessible to many users with disabilities.

For more information, contact the Federal Communications Commission at (888) 225-5322 (V)/(888) 835-5322 (TTY) or online at <http://www.fcc.gov/cgb/dro>.