



---

## Reasonable Accommodation: Deafness and Hearing Impairments

Questions and Answers about Deafness and Hearing Impairments in the Workplace excerpted from the Equal Employment Opportunity Commission Enforcement Guidance. ([www.eeoc.gov](http://www.eeoc.gov))

The Americans with Disabilities Act (ADA) is a federal law that prohibits discrimination against individuals with disabilities. Title I of the ADA covers employment by private employers with 15 or more employees and state and local government employers of the same size. Section 501 of the Rehabilitation Act provides the same protections for federal employees and applicants for federal employment. Most states also have their own laws prohibiting employment discrimination on the basis of disability. Some of these state laws may apply to smaller employers and provide protections in addition to those available under the ADA.

Individuals with hearing impairments can perform successfully on the job and should not be denied opportunities because of stereotypical assumptions about hearing loss. Some employers assume incorrectly that workers with hearing impairments will cause safety hazards, increase employment costs, or have difficulty communicating in fast-paced environments. In reality, with or without reasonable accommodation, individuals with hearing impairments can be effective and safe workers.

### **When is a hearing impairment a disability under the ADA?**

A hearing impairment is a disability under the ADA if: (1) it substantially limits a major life activity; (2) it substantially limited a major life activity in the past; or (3) the employer regarded (or treated) the individual as if his or her hearing impairment was substantially limiting.

The determination of whether a hearing impairment is substantially limiting must be made on an individualized, case-by-case basis.

### **May an employer request medical information about an applicant's hearing impairment that is obvious or that the applicant has disclosed?**

No, the employer may not ask for an applicant's medical history, records, or other information about a hearing impairment that is obvious or that has been disclosed. However, if an employer

*Division of Risk Management and Insurance Services, Integrated Disability Management coordinates reasonable accommodation, stay at work/return to work, absence management and FMLA leaves. For more information on these programs or a copy of this document in an alternative format: Email: [disabilitymanagement@lausd.net](mailto:disabilitymanagement@lausd.net) Website: <http://reasonableaccommodation.lausd.net>*



reasonably believes that an applicant with a known hearing impairment will need a reasonable accommodation to do the job, it may ask if an accommodation is needed and, if so, what type. In addition, the employer may ask the applicant to describe or demonstrate how s/he could perform the job with or without an accommodation.

**Are there other instances when an employer may ask an employee about his hearing impairment?**

Yes. When an employee requests a reasonable accommodation for a hearing disability and the disability and/or need for accommodation is not obvious, an employer may ask for reasonable documentation showing that the condition is a disability and/or that accommodation is needed.

**May an employer explain to co-workers that an employee is receiving a reasonable accommodation because of a hearing disability?**

No. Telling co-workers that an employee is receiving a reasonable accommodation amounts to a disclosure of confidential medical information. An employer, however, may respond to co-workers' questions by explaining that it will not discuss the situation of any employee with co-workers. Additionally, an employer may be less likely to receive questions from co-workers if its employees are educated on the requirements of EEO laws, including the ADA.

**What type of accommodations may an individual with a hearing disability need?**

Applicants or employees with hearing disabilities may need one or more of the following accommodations:

- a sign language interpreter
- a TTY, text telephone, voice carry-over telephone, or captioned telephone
- a telephone headset
- appropriate emergency notification systems (e.g., strobe lighting on fire alarms or vibrating pagers)
- written memos and notes (especially used for brief, simple, or routine communications)
- work area adjustments (e.g., a desk away from a noisy area or near an emergency alarm with strobe lighting)
- assistive computer software (e.g., net meetings, voice recognition software)
- assistive listening devices (ALDs)

*Division of Risk Management and Insurance Services, Integrated Disability Management coordinates reasonable accommodation, stay at work/return to work, absence management and FMLA leaves. For more information on these programs or a copy of this document in an alternative format: Email: [disabilitymanagement@lausd.net](mailto:disabilitymanagement@lausd.net) Website: <http://reasonableaccommodation.lausd.net>*



- augmentative communication devices that allow users to communicate orally by typing words that are then translated to sign language or a simulated voice
- communication access real-time translation (CART), which translates voice into text at real-time speeds
- time off in the form of accrued paid leave or unpaid leave if paid leave has been exhausted or is unavailable.
- altering an employee's marginal (i.e., non-essential) job functions
- other modifications or adjustments that allow a qualified applicant or employee with a hearing disability to enjoy equal employment opportunities.

A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of the individual with a hearing impairment. For example, an individual with a hearing disability may submit a note from her doctor requesting a change in the location of her work area due to excessive noise that interferes with her hearing aid.

An individual with a hearing disability is not required to request an accommodation needed for the job at a particular time (e.g., during the application process), and an employer may not refuse to consider a request for accommodation because it believes the request should have been made earlier. However, it is a good idea for an individual with a hearing disability to request reasonable accommodation before performance or conduct problems occur.

### **May an employer request documentation when an individual with a hearing impairment requests a reasonable accommodation?**

Sometimes. When a person's hearing impairment is not obvious, the employer may ask the person to provide reasonable documentation showing the existence of a disability and why a reasonable accommodation is needed. The request for documentation must be reasonable. An employer may not ask for information about conditions unrelated to the one for which the accommodation is requested or require more information than is necessary for the employer to determine whether an accommodation is needed.

### **Does an employer have to provide the reasonable accommodation that an individual with a disability wants?**

No. An employer has a duty to provide a reasonable accommodation that is effective to remove the workplace barrier. An accommodation is effective if it will provide an individual with a disability with an equal employment opportunity to participate in the application process,

*Division of Risk Management and Insurance Services, Integrated Disability Management coordinates reasonable accommodation, stay at work/return to work, absence management and FMLA leaves. For more information on these programs or a copy of this document in an alternative format: Email: [disabilitymanagement@lausd.net](mailto:disabilitymanagement@lausd.net) Website: <http://reasonableaccommodation.lausd.net>*



attain the same level of performance as co-workers in the same position, and enjoy the benefits and privileges of employment available to all employees. Where two or more suggested accommodations are effective, primary consideration should be given to the individual's preference, but the employer may choose the easier or less expensive one to provide.

**Are there actions an employer is not required to take as reasonable accommodations?**

Yes. An employer does not have to remove an essential job function (i.e., a fundamental job duty), lower production standards, or excuse violations of conduct rules that are job-related and consistent with business necessity, even where an employee claims that the disability caused the misconduct. Additionally, employers are not required to provide employees with personal use items, such as hearing aids or similar devices that are needed both on and off the job.

**What kinds of reasonable accommodations are related to the “benefits and privileges” of employment?**

Reasonable accommodations related to the “benefits and privileges” of employment include those accommodations that are necessary to provide an employee with a hearing disability equal access to information communicated in the workplace, the opportunity to participate in employer-sponsored events (e.g., training, meetings, social events, award ceremonies), and the opportunity for professional advancement.

**When may an employer prohibit an employee with a hearing disability from doing a job because of safety concerns?**

If an employee would pose a “direct threat” (i.e. a significant risk of substantial harm to herself or others) when working in a particular position, even with a reasonable accommodation, then an employer can prohibit her from performing that job. Any potential harm must be substantial and likely to occur.

*Division of Risk Management and Insurance Services, Integrated Disability Management coordinates reasonable accommodation, stay at work/return to work, absence management and FMLA leaves. For more information on these programs or a copy of this document in an alternative format: Email: [disabilitymanagement@lausd.net](mailto:disabilitymanagement@lausd.net) Website: <http://reasonableaccommodation.lausd.net>*