

The Workplace, COVID-19 and Hearing Loss

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Your rights under the Americans with Disabilities Act (ADA) of 1990 don't disappear during a pandemic. Here is important information for workers and employers as offices reopen or provide hybrid (both remote and on site) employment opportunities.

The COVID-19 pandemic, which started impacting the workplace in March 2020, continues to force employers and employees to rethink how to get the job done safely. While early summer 2021 held out the promise of us all going back to the office for an in-person workday, the Delta variant soon emerged and it became clear we are still very much in the midst of a pandemic. That requires us all to think safety first, whether working remotely or on site.

What does that mean for people with hearing loss?

- If you have a hearing loss, be sure to understand what you need on the job to be the best employee you can be while at the same time understanding your rights under the law.

Are there any laws that help me get accommodation or prevent discrimination in the workplace based on disability?

- Yes. The ADA is a federal law that seeks to level the playing field for all people with disabilities at work, in public places, for telecommunications access, and when interacting with state or local governments.
- Title I of the ADA prohibits employers from discriminating against employees or applicants with disabilities in all aspects of employment, including hiring, pay, promotion, and firing.
- If you have a hearing loss, you have a right to accommodations under the ADA. That's not just a matter of exercising your civil rights; accommodations allow you to communicate effectively with your team and clients to get the job done.

Does working under the COVID-19 change my rights under the ADA?

- No. The U.S. Equal Employment Opportunity Commission (EEOC) enforces workplace anti-discrimination laws, including the ADA. In a technical assistance document issued March 18, 2020, "Pandemic Preparedness in the Workplace and the Americans with Disabilities Act," the EEOC says:
 - The ADA, which protects applicants and employees from disability discrimination, is relevant to pandemic preparation in at least three major ways.
 - ADA regulates employers' disability-related inquiries and medical examinations for all applicants and employees.
 - The ADA prohibits covered employers from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a "direct threat" (a significant risk of substantial harm even with reasonable accommodation).
 - The ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during a pandemic.

What is a reasonable accommodation?

A "reasonable accommodation" is a change in the work environment that allows an individual with a disability to have an equal opportunity to apply for a job, perform a job's essential functions, or enjoy equal benefits and privileges of employment. Examples of reasonable accommodations that may be requested by people with hearing loss include:

- Captioning on video conferencing platforms
- CART (Communication Assistance Realtime Captioning) for on-site meetings
- Assistive listening devices for on-site meetings

- Written agendas before the meeting and written notes and action items after the meeting
- Captioning on videos
- Speech-to-text apps and/or assistive listening devices for one-to-one meetings
- Captioned telephones or video relay phones
- Sign language interpreters

For more information, refer to the following resources:

- Employees—Hearing Loss Association of America
- Accessible Remote Work Meetings for Deaf and Hard of Hearing Employees-Hearing Loss Association of America
- Pandemic Preparedness in the Workplace and the Americans with Disabilities Act
- What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws—U.S. Equal Employment Opportunity Commission (eoc.gov)
- The ADA: Your Employment Rights as an Individual With a Disability-U.S. Equal Employment Opportunity Commission (eoc.gov)
- JAN—Job Accommodation Network (askjan.org)

Optimize Hearing Assistive Technology at Work

Whether it's a meeting, remote work, or hearing on the phone, hearing assistive technology can help. Some examples of hearing assistive technology include:

- Personal hearing devices such as hearing aids, cochlear implants, or bone-anchored devices
- Assistive listening devices for one-to-one meetings
- Assistive listening systems for large meetings and events using hearing loop systems, FM systems, or Infrared systems
- Captioning and CART, including speech-to-text apps
- Captioned phones and apps; videophones
- Video conferencing platforms with captions
- Visual and tactile alerting for emergency alerts, phones, clocks and doors

Additional information can be found at Technology—Hearing Loss Association of America.

What can I do if people around me must use face masks?

As long as COVID-19 is around, it looks like face masks in the workspace will be needed. Cloth and surgical masks pose a particular problem for people with hearing loss: They both muffle speech and hide the face and lips. For people with hearing loss, that means hearing and understanding what is being said becomes much more difficult and speech reading (lipreading) others becomes impossible.

The problem of masking is not easily solved. The workaround you choose will depend on your degree of hearing loss and whether you depend on speech reading. Some possible workarounds include:

- Speech-to-text apps such as AVA, Live Transcribe, Microsoft Translate and Otter.ai
- Assistive listening devices
- Clear window face masks
- White board or pen and paper

For more information, visit the following:

- COVID-19: Considerations for Wearing Masks—CDC
- Proposed Settlement Reached in ADA Face Mask Lawsuit-Hearing Loss Association of America
- Face masks make it harder to hear, but amplification can help—Innovation in Augmented Listening Technology—University of Illinois at Urbana-Champaign

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