



hearingloss.org

POSITION PAPER

Job Qualification Testing

Synopsis: It is the position of the Hearing Loss Association of America that employees and applicants who use hearing aids must be tested with their hearing aids when determining their qualifications for jobs where a level of hearing proficiency is a legitimate criterion.

Hearing loss is a disability within the meaning of the Americans with Disabilities Act (ADA). This statute, as amended in 2008, clarifies that the use of hearing aids does not cause individuals with hearing loss to lose their rights under the law. The ADA prohibits an employer from applying a job qualification standard that screens out or tends to screen out disabled persons.

Thus, a requisite level of hearing proficiency can be included as a job qualification requirement only if an employer can demonstrate that such a standard is job related and a business necessity. In the absence of such a showing, an employer cannot reject an applicant or terminate or restrict the duties of an employee because of hearing loss.

This showing can be made for a number of different jobs, but it is primarily asserted where performance of the job might result in a direct threat to the safety of the employee or other people. Jobs in law enforcement and firefighting are examples where employers have successfully met this standard. For these types of jobs, applicants and employees are required to pass hearing tests. The question is whether they may use hearing aids during this testing.

The U.S. Department of Justice in carrying out its ADA enforcement responsibilities has maintained that individuals must be evaluated on a case-by-case basis, with or without hearing aids. Consistent with this guidance, many state and local police officers as well as guards at nuclear facilities may use hearing aids during hearing tests. However, instances occur where employers have barred individuals from using hearing aids while being tested.

It is imperative that employers and individuals holding or seeking jobs understand their right to be evaluated with hearing aids. These individuals have no other way to demonstrate their capability to perform these jobs.

March 2018