

March 30, 2011

Society for Human Resource Management  
1800 Duke Street  
Alexandria, Virginia 22314

To the Society for Human Resource Management (SHRM):

We would like to bring to your attention the discriminatory conduct of three Human Resources/Recruitment specialists in the recent segment about employment discrimination against deaf applicants on the ABC Show "What Would You Do?" aired on Friday, February 4th. The episode featured a scenario in which two deaf women went into a Smart World Coffee to apply for a position in the kitchen. The managers told the women that they would not be hired because they are deaf. While that entire scenario was staged by actors, the reactions of three human resource professionals who happened to witness the scenario were not. The conduct exhibited by those human resource professionals is not only alarming and completely unacceptable, but discriminatory. To view the full footage of the "What Would You Do?" employment discrimination episode, please

visit: <http://abcnews.go.com/WhatWouldYouDo/video/im-hire-deaf-person-12841354?&clipId=12841354&playlistId=-1&cid=siteplayer>.

These three random bystanders, all of whom work in the human resources and recruitment field, side with the managers and give advice on how to discriminate against deaf and hard of hearing applicants without overtly violating the Americans with Disabilities Act (ADA). For example, one of the human resources professionals explained to the manager that he should accept applications from everyone regardless of disability and that instead of telling deaf or hard of hearing applicants they would not be hired, advised that he "just [not] call them back." Another human resources/recruitment specialist told the manager to just write, "not a fit," on the back of the applicant's form, despite being qualified for the position. This indicates that there is pervasive employment discrimination against deaf and hard of hearing individuals.

The purpose of the ADA is to:

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
  - (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
  - (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities;
- and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 U.S.C. § 12101(b). Title I of the ADA prohibits discrimination against any qualified individual with a disability on the basis of disability by any employer, employment agency, labor organization, or joint against individuals with disabilities. 42 U.S.C. § 12111(2); and 42 U.S.C. § 12112(a) and (b)(4). Discrimination against a qualified individual with a disability on the basis of disability includes, among many others, “limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee[.]” 42 U.S.C. § 12112(b)(1).

The statements made by the human resources professionals to the manager were discriminatory against deaf and hard of hearing individuals solely on the basis of their disability. One of the human resources specialist in the episode stated that, “they (disabled people) have more rights than anyone in the world.” This statement sets back the Civil Rights Movement and quickly dismisses the vast amount of discrimination—both overt *and covert*—that deaf and hard of hearing individuals have experienced and are still experiencing today.

Based on the reactions of the three human resources professionals, who actively assisted the managers with discrimination while avoiding litigation, it is not surprising that deaf and hard of hearing people, and people with disabilities, experience high under- and un-employment rates. The statistics are staggering. In 2008, only 55.7 percent of Americans with hearing disabilities, between the ages of 18 and 64, were employed, while 77.8 percent of non-disabled Americans aged 18 to 64 were employed. Only 40.9 percent of deaf or hard of hearing Americans between the ages of 21 and 64 were employed full time in 2008. In contrast, 60.4 percent of non-disabled Americans between 21 and 64 were employed full time.[1] Many of these individuals have families of their own that they must provide for. Discrimination does not only adversely affect the individuals discriminated against. It has a devastating series of impacts upon people other than simply those who are discriminated against.

The NAD requests that your organization review your practices to determine how your organization can ensure that human resource professionals act proactively to ensure that deaf and hard of hearing individuals are not discriminated against in employment. Because the human resources professionals on "What Would You Do?" have given thousands of viewers a "blueprint" on how to discriminate against deaf and hearing professionals and get away with it, there is a greater need for SHRM to encourage training and awareness of anti-discrimination standards for the hiring and employing deaf and hard of hearing individuals among your members. Furthermore, there are countless success stories of employers hiring deaf and hard of hearing individuals who are doctors, lawyers, stockbrokers and IT professionals, and these positive stories can be made available to SHRM members.

We believe that this footage is a glimpse of the current reality of hiring practices of deaf and hard of hearing individuals. Your organization has a unique role in working with HR people and we

hope that you will take up an initiative to address the discrimination of people with disabilities in the hiring process. People need to be reminded from time to time about the harm of discrimination and especially those who oversee the hiring process where discrimination can be most harmful.

The National Association of the Deaf (NAD) was established in 1880 by deaf leaders who advocated for the rights of the American deaf community to use sign language, to congregate on issues important to them, and to have its interests represented at the national level. As a nonprofit organization, the mission of the NAD is to preserve, protect, and promote the civil, human, and linguistic rights of deaf and hard of hearing individuals in the United States of America. Since its inception, the NAD has continuously sought to increase employment opportunities for people who are deaf or hard of hearing. For more information, visit <http://www.nad.org>.

We hope to hear from you on what can be done to address this situation.

Sincerely,

/s/

Nancy J. Bloch  
Chief Executive Officer  
National Association of the Deaf