

INDEX

DEFINITIONS

1. Americans with Disabilities Act
(7.707.41.B9)

THE AMERICAN WITH DISABILITIES ACT

The American with Disabilities Act (ADA) gives civil rights protection to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications. According to Title III of the ADA, child care centers and family child care homes are public accommodations and must comply with this law. The ADA went into effect in January 1992. The ADA Amendments Act of 2008, which took effect in January 1, 2009 revised the definition of "disability" to be interpreted more broadly.

The ADA mandates that equal access be given to all children with disabilities in child care programs and that children with disabilities be fully integrated into the regular activities, appropriate to their individual needs. The law not only covers the facility where child care is offered, but also features which are needed to access the facility such as sidewalks, doors and bathrooms.

Child care programs are required to make "reasonable accommodations" for all children with disabilities. Reasonable accommodations modify policies, practices and procedures to allow children with disabilities to participate fully in the services, programs and activities provided by the center. Programs are not required to make changes that would create an undue burden, which is most simply defined as creating significant difficulty or expense. Child care programs may not charge additional fees for providing extra accommodations required by the ADA.

For the purposes of the ADA, a disability is a physical or mental impairment that substantially limits one or more major life activities. The definition of a major life activity was expanded by the ADA Amendment Act of 2008. A major life activity also includes caring for oneself, performing manual tasks, seeing, hearing eating sleeping, standing, lifting, speaking, breathing, learning, reading, concentrating, thinking, and communicating as well as major bodily functions.

Child care programs are required to make an individualized assessment about whether it can meet the particular needs of the child without fundamentally changing its program. If the child has an individualized family services plan (IFSP) or individualized education plan (IEP) to meet his or her educational needs, as required by the Individuals with Disabilities Education Act, the provider can also use that as a guide or resource for determining reasonable accommodations. Generally, the ADA does not require centers to hire additional staff or provide constant one-to-one supervision of a particular child with a disability.

A few examples of situations where accommodations can be made in a child care program:

- Child older than 4 years of age who wears diapers.
- Child requires blood glucose testing during the day by child care personnel.
- Child with a potential life threatening allergy and may require emergency medication
- Child with leg braces that needs assistance in taking off and then putting them on.
- Child with moderate developmental delays

Information about a child's disability is confidential and should not be shared with others unless you have consent from the parent or legal guardian of the child.

Resources

- Department of Justice Information ADA Information Line 1-800-514-0301
- Commonly Asked Questions about Child Care Centers and the American with Disabilities Act www.usdoj.gov/crt/ada/adahom1.htm
- The ADA Amendments Act of 2008 <http://www.access-board.gov/about/laws/ada-amendments.htm>