

ADA & AFTER SCHOOL AND DAYCARE PROGRAMS FOR CHILDREN WITH DISABILITIES



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OBJECTIVES

- ▶ Basic Knowledge of the Americans With Disabilities Act (ADA) and Childcare
- ▶ Specifics: What Exactly Must Child Care Providers Do?
- ▶ Inclusion: The Obvious Alternative
- ▶ ADA and Individuals with Disabilities Education Act (IDEA)
- ▶ Individual Assessment and Case Studies

DOES THE ADA APPLY TO CHILD CARE CENTERS?

- ▶ Privately-run child care centers - like other public accommodations - must comply with Title III of the ADA.
- ▶ Even small, home-based centers that may not have to follow some State laws are covered by Title III.
- ▶ Exception: Child care centers that are actually run by religious entities.
 - Private child care centers that are operating on the premises of a religious organization are generally **not** exempt from title III.

ASSUMPTIONS

- ▶ Children with disabilities are children
- ▶ Parents of children with disabilities are parents
- ▶ Parents of children with disabilities who need childcare
- ▶ Parents who need childcare

SPECIFICS: WHAT EXACTLY MUST CHILD CARE PROVIDERS DO?

- ▶ Have enrollment policies and practices that don't discriminate against children with disabilities
- ▶ Cannot exclude children with disabilities from their programs unless their presence would pose a *direct threat* to the health or safety of others or require a *fundamental alteration* of the program.
- ▶ Provide auxiliary aids and services for effective communication
- ▶ Generally make their facilities accessible to persons with disabilities

ENROLLMENT POLICIES & PRACTICES THAT DON'T DISCRIMINATE

- ▶ Note: The ADA doesn't say that child care providers **MUST** enroll children with disabilities - it says we **MUST NOT** discriminate.
- ▶ Enrollment decisions for children with disabilities can be made on a case-by-case basis

CASE-BY-CASE BASIS???

- ▶ ADA allows providers to evaluate the situation
- ▶ Will the child present a direct threat to health and safety of others?
 - If yes, what accommodations or modifications might eliminate this direct threat?
 - If no, what accommodations or modifications are needed to enroll the child?
- ▶ Will these accommodations or modifications require a fundamental alteration to or create a undue burden on the program?

DENYING ENROLLMENT: AN UNLIKELY SITUATION

- ▶ Individualized Assessment must document :
 - Good Faith Effort
 - Necessary Care would cause Direct Threat or Fundamental Alteration to the nature of the child care program
 - Undue burden placed on child care program

ADA AND INDIVIDUALS WITH DISABILITIES ACT (IDEA)

ADA AND INDIVIDUALS WITH DISABILITIES ACT (IDEA)

- ▶ IDEA - Federal legislation that requires states to provide
 - Early Intervention (birth to age 3)
 - Special Education (ages 3 to 21)
- ▶ Key IDEA requirements related to ADA
 - Natural environments (birth to age 3)
 - Least restrictive environment (LRE) (ages 3 to 21)

ADA AND IDEA: EARLY INTERVENTION (PART C)

- ▶ Part C – requires states to provide service coordination and Individual Family Service Plans (IFSP) for infants and toddlers with a disability or delay
- ▶ States are required to provide services on an IFSP at no cost to families unless federal or state law provides for a sliding schedule
- ▶ Early Intervention Services might be delivered by an itinerate therapist who comes to the child care setting, but this is not required

ADA AND IDEA: PRESCHOOL SPECIAL EDUCATION (PART B)

IDEA mandates **Free Appropriate Public Education (FAPE)** for individuals with disability (3 years to 21 years)

- ▶ Families do not pay for FAPE
- ▶ Childcare is not FAPE

BUT

ADA AND IDEA: LEAST RESTRICTIVE ENVIRONMENT

IDEA mandates Least Restrictive Environment (LRE) for individuals with disability (3 years to 21 years)

- ▶ LRE means children with disabilities **MUST** be educated with their typically developing peers
- ▶ School systems vary – but LRE is the legal support for families to get access to the general education environment

ADA AND IDEA: LEAST RESTRICTIVE ENVIRONMENT

- ▶ Local Education Agency (LEA) may contract with community childcare centers for **early childhood special education in the LRE**
 - Should be high quality, inclusive program
 - Should be age-placement appropriate
 - LEA should pay for educational portion of day
 - Parents pay for childcare portion of day

ADA AND IDEA

- ▶ Inclusive childcare environments meet IDEA Natural and LRE requirements
- ▶ Children protected under IDEA are also protected under ADA
- ▶ Children protected under ADA are also protected under IDEA

**INCLUSIVE CHILD CARE:
THE OBVIOUS ALTERNATIVE**

WHAT IS INCLUSIVE CHILD CARE?

- ▶ Child care that:
 - Allows **all children to learn together** in an educational atmosphere
 - **Supports and nurtures** the individual strengths of each child
 - Encourages **each child to participate** in the daily routines and activities of the class
 - Accepts **differences (cognitive, physical, behavioral)**

WHY INCLUSION?

- ▶ **Legal:** IDEA requires children with disabilities to be placed in classrooms with their typically developing peers
- ▶ **Moral:** Children with disabilities have the right to participate in the same programs available to other children
- ▶ **Empirical:** Strong research support for inclusion, especially at the pre-school level

BENEFITS OF INCLUSION – CHILDREN WITH DISABILITIES

- ▶ Socialization with competent peer models
- ▶ Interactive and communicative partners
- ▶ Realistic life experiences
- ▶ Friendship development
- ▶ Spared the negative effects of segregation

BENEFITS OF INCLUSION CHILDREN WITHOUT DISABILITIES

- ▶ **Opportunity for:**
 - Realistic and accurate views of persons with disabilities
 - The development of positive attitude and sensitivity about differences
 - Witnessing examples of success despite challenges

**BENEFITS OF INCLUSION
PARENTS OF CHILDREN WITH DISABILITIES**

▶ **Opportunity to:**

- Learn about typical development
- Develop relationships and a support network with families of children without disabilities
- Participate in the same activities as parents of children without disabilities
- Feel less isolated and stigmatized

**BENEFITS OF INCLUSION
PARENTS OF CHILDREN WITHOUT
DISABILITIES**

▶ **Opportunity to:**

- Develop relationships with and feel a sense of support to families of children with disabilities
- Teach their children to accept individual differences
- Teach their children sensitivity and kindness

BARRIERS TO INCLUSION

▸ Program Quality

- High adult child ratios
- Large class sizes
- Inadequate staff training & preparation
- Lack of administrative support

BARRIERS TO INCLUSION

▸ Attitudes, Beliefs, and Fears

- Philosophical differences among professionals
- Administrative resistance
- Fear of the unknown

GETTING STARTED WITH INCLUSION

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- ▶ Get information about the child such as:
 - Interests
 - Reinforcers
 - Favorite activities and environments
 - Dislikes and triggers
 - Eating, sleeping, toileting, communication, and play skills

NOTE: Parental involvement is a key factor!

GETTING STARTED WITH INCLUSION

- ▶ Get information about the child's goals from:
 - **Individual Family Service Plan (IFSP):**
a written plan of special support goals and services to be provided to infants and toddlers under the age of three for their families
 - **Individualized Education Plan (IEP):**
a written plan of educational goals and objectives for a student

SUCCESSFUL INCLUSION



SUCCESSFUL INCLUSION

- ▶ Vision and Leadership
- ▶ High quality childcare for children without disabilities
- ▶ Program philosophy that embraces inclusion
- ▶ Program policies that support inclusion

SUCCESSFUL INCLUSION

- ▶ Appropriate inservice and training support for providers
- ▶ Collaboration with families
- ▶ Interagency collaboration with the special education community

DEVELOPING AN INCLUSION PLAN

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- ▶ Ensure receiving teacher has an inclusion philosophy
- ▶ Plan how you will prepare the other children and get parental input

DEVELOPING AN INCLUSION PLAN

- ▶ Plan how you will ensure the child is included into all activities
 - Circle and large group activity
 - Art, sensory, table, etc. activities
 - Outdoor and gross motor activities
 - Meals and snack

DEVELOPING AN INCLUSION PLAN

- ▶ Plan how you will meet any special feeding and toileting needs
- ▶ Seek support as soon as you feel you need it!!

Resource: Center for Inclusive Child Care:
www.inclusivechildcare.org

REAL LIFE: CASE SCENARIOS



ABBIE

- ▶ Ms. Taylor called your school to inquire about childcare for her daughter Abbie, who is 20 months old and has spina bifida. She tells you Abbie is “smart for her age and the Doctor says her language is right on target. Abbie uses a wheelchair and she needs to be in a school that is wheelchair accessible.
- ▶ What do you do?

ABBIE: ADA ASSESSMENT INFORMATION

- ▶ Can Abbie get into your building?
 - A short ramp is a modification that is not likely to create a significant burden
- ▶ Can Abbie get into her classroom?
 - Small wheelchairs will fit through regular doors

ABBIE: ADA ASSESSMENT INFORMATION

- ▶ Can Abbie participate in the activities presented to the other children?
- ▶ Will enrolling Abbie in your center present harm or danger to other children?
- ▶ Is there justification for denying enrollment to Abbie?

ABBIE'S INCLUSION PLAN

- ▶ Abbie's parents will carry her into the building and bring the wheelchair
- ▶ Ms. Carol will be sure classroom is arranged so Abbie can get around the room
- ▶ Ms. Carol and Ms. Teshia are excited to have Abbie join their class, they will make sure someone helps her get to all activities and participates in the activities

ABBIE'S INCLUSION PLAN

- ▶ Ms. Jordan (Abbie's mother) will "introduce" Abbie to the classroom
- ▶ Ms. Carol and Ms. Teshia will encourage peer support and friendship (we think Bridget, Tonya, and Tori are particularly likely to want to befriend Abbie)
- ▶ Ms. Tricia will come at lunch time to help Abbie

WINSTON

- ▶ Winston's mother calls inquiring about childcare. Winston is 2 ½ years old and has just been diagnosed with autism. She is working with the early intervention system and Winston has an IFSP so a teacher and speech/language therapist come to the home once a week. She needs to go back to work and needs childcare for Winston.

- ▶ What do you do?

WINSTON: ADA ASSESSMENT INFORMATION

- ▶ Can Winston participate in the activities presented to the other children?
 - Probably, with some modifications and adaptations
- ▶ Will enrolling Winston in your center present harm or danger to other children?
 - Probably not, children with autism don't interact with other children in a way that might cause harm or danger to other children
 - Heightened staff attention may be needed

WINSTON: ADA ASSESSMENT INFORMATION

- ▶ Is there justification for denying enrollment to Winston?
 - No – the modifications and adaptations needed should not cause an undue burden on the program

WINSTON'S INCLUSION PLAN

- ▶ Winston's early intervention teacher, Speech-Language Pathologist, and parents will meet with childcare staff to share his IFSP and provide "what works" information for Winston
- ▶ Teachers are excited to have Winston join their class, after the meeting with his IFSP team, they will evaluate the adult role during the school day and plan how they ensure needed accommodations and modifications are provided

WINSTON'S INCLUSION PLAN

- ▶ Teachers will increase their social skill awareness with the children in the classroom
- ▶ Teachers will encourage peer support and friendship (Jamie & Tracy likely peer helps)

TANYA

- ▶ Tanya's grandmother calls inquiring about childcare. Tanya is 16 months old and the grandmother has custody. In discussing Tanya, grandmother tells you she's the guardian because Tanya's mother died of AIDS. When you inquire, she tells you Tanya has also been diagnosed with AIDS! She says so far Tanya has been healthy and she's developing normally.
- ▶ What do you do?

TANYA: ADA ASSESSMENT INFORMATION

- ▶ Can Tanya participate in the activities presented to the other children?
 - Yes
- ▶ Will enrolling Tanya in your center present harm or danger to other children?
 - While this is possible, there is significant scientific evidence that HIV/AIDS cannot be easily transmitted during the types of incidental contact that takes place in childcare.
 - Heightened staff attention will be needed, and universal precautions, such as wearing latex gloves when coming in contact with blood & bodily fluids will be needed (but we already do that!)
- ▶ Is there justification for denying enrollment to Tanya?
 - No – with proper precautions, Tanya's HIV will not present a direct threat to children and adults in the center.

TANYA'S INCLUSION PLAN

- ▶ School administration will provide Tanya's teachers with information about HIV/AIDS to ensure they understand the illness, and understand Tanya does not present a health and safety threat
- ▶ School administration will ensure teachers understand the need to use caution in any situation that requires contact with Tanya's blood or bodily fluids
- ▶ Because Tanya's immune system is weak, teachers will inform Grandmother any time she is exposed to common childhood diseases and Grandmother will take her to the doctor

RESOURCES

- ▶ **Commonly Asked Questions about Child Care Centers and the ADA**
www.ada.gov/childq&a.htm
- ▶ **Individuals with Disabilities Education Act (IDEA)**
<http://idea.ed.gov/>
- ▶ **All Kids Count: Child Care and the ADA**
Published by The Arc
Phone: (202) 534-3700 / (800) 433-5255

RESOURCES

- ▶ **National Network for Childcare: Children with Disabilities or Special Needs**
www.nccc.org/Diversity/divers.disable.special.html
- ▶ **Checklist for Readily Achievable Barrier Removal**
www.ada.gov/checkweb.htm
- ▶ **Tax Credits and Deductions**
www.ada.gov/taxcred.htm

RESOURCES

- ▶ **National Dissemination Center for Children with Disabilities**
www.nichcy.org
- ▶ **Parent Training and Information Centers**
www.taalliance.org/ptidirectory/pclist.asp

STILL HAVE QUESTIONS?

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