ADA & AFTER SCHOOL AND DAYCARE PROGRAMS FOR CHILDREN WITH DISABILITIES

Ruth A. Wolery, PhD
Assistant Professor
Vanderbilt University

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)

› 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

- 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

› 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
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.nncc.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?

Contact: Ruth A. Wolery, PhD

› Telephone: 615-343-0824

› Email: ruth.a.wolery@vanderbilt.edu

› Website: http://peabody.vanderbilt.edu/5128.xml