



Georgia's Source for Finding Quality Child Care

Common Questions about the Americans with Disabilities Act

How does the ADA affect a child care program?

The **Americans with Disabilities Act** (1990) prohibits child care programs from discriminating against children, employees, or parents based on the fact that the person has a disability. The ADA also requires a program to make reasonable accommodations in order to be able to enroll, employ, or give access to a person with a disability. The only facilities that are exempt from ADA regulations are programs that are operated by a religious organization.

Who is defined as having a disability under the ADA?

Any person who has a physical or mental impairment that substantially limits one or more of his/her major life activities is considered to have a disability. The ADA also protects a person who has a record of a disability, who is perceived as having a disability, or persons associated with a person with a disability. Major life activities include walking, seeing, breathing, hearing, and learning.

Do child care programs have to admit a child with a disability before other children requesting enrollment?

Children should be admitted into a program based on a first come first serve policy. If a typically developing child requests an enrollment form and turns it in before a child with special needs, the child with special needs should be put on a waiting list to be enrolled when the next vacancy becomes available.

What fees should be charged for serving a child with a disability?

A child with a disability should generally be charged the same rate as a typically developing child of the same age. If more funding is needed to make accommodations to care for the child, rates can be raised for every child in the program to compensate. In a very narrow range of circumstances, when accommodating a child with a disability would be so expensive that the economic health of the child care program would be in jeopardy, families may choose to pay more for the child care service. The state may also subsidize children with a disability at a higher rate than typically developing children. Many child care programs are also eligible to receive a tax deduction or a tax credit to help offset the expense of certain types of accommodations.

Do child care programs have to admit a child if their policy states that the child must be potty trained before enrollment?

Many children with special needs will not master potty training at the typical time during the preschool years. Therefore, if there is a diaper changing station anywhere in the child care building, the child cannot be refused enrollment based on the fact he/she is not potty trained, no matter what the child's age. If no diapering or toileting assistance ever takes place in the program, the child still should not be refused enrollment if other arrangements can be made, such as having a parent or personal assistant come to do diapering and toileting assistance.

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This flyer is meant for informational purposes only. It is not intended to be used as a substitute for specific legal advice. For specific legal advice, consult a lawyer who is familiar with the ADA.



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What changes do child care programs have to make to their environment to make it accessible?

In an existing child care facility, any barriers that limit access for people with disabilities should be removed if they can be easily accomplished and carried out without much difficulty or expense. Examples of readily achievable barrier removal may include installing a wheelchair ramp, installing grab bars along the walls, and lowering telephones. However, these are only examples of a few barrier removals that may be readily achievable, and there are many more that can be made. If the child care program is building a new facility, the new buildings and surrounding environments, such as the playground, must be readily accessible to and usable by people with disabilities. These new facilities must be in compliance with the ADA Standards for Accessible Design.

Do child care programs have to admit a child who is dangerous to others?

In a very narrow range of circumstances, if a child poses a direct threat to the health and safety of other people, the child does not have to be admitted to the program. However, this decision cannot be based on a provider's fear or discomfort in serving the child; rather, it must be made based on documented observations of the child's behavior. In addition, this decision must be based on each individual child seeking enrollment and not stereotypes of behaviors associated with the child's disability.

What can happen to child care programs if they do not abide by the ADA?

The Americans with Disabilities Act is a federal law, and child care programs are required to follow the guidelines stated in it. If those guidelines are not followed, legal action can be taken by a parent or the government against the child care program.

Where can I get more information on the ADA?

The Department of Justice operates an ADA Information Line

Information Specialists are available M-F; 9:30 a.m. – 5:30 p.m. (12:30 p.m. – 5:30 p.m. Thurs)

800-514-0301 (VOICE)

800-514-0383 (TDD)

The ADA Home Page- Contains regulations and technical assistance materials

www.usdog.gov/crt/ada/adahom1.htm

Child Care Law Center - Low cost booklets about the ADA and child care

415-394-7144

www.childcarelaw.org

The ARC of the United States- 5-page report explaining the ADA in child care

www.thearc.org

**For further assistance in determining the best option for your family, call us at
877-ALL-GA-KIDS (877-255-4254).**

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