

## Americans with Disabilities Act (ADA) is good news for child care!

The Americans with Disabilities Act (ADA) truly is good news for early childhood professionals. It recognizes our commitment to creating environments that respond to the needs of individual children. Simply stated, realization of the ADA means children may not be excluded from child care programs because of disability. What is meant by disability? Disability is described as a physical or mental impairment that substantially limits major life activities--communicating, hearing, seeing, walking. (Disability is not, however, communicable disease such as chicken pox or flu.) You may be wondering what effect this milestone legislation has on you and your program. To be specific, here is a list of effective practices and policies that help you comply with this law:

- ★ Continuing to use developmentally appropriate practices—which emphasize individual growth patterns, strengths, interests, and experiences of young children—to design appropriate learning environments.
- ★ Adopting an attitude of "how can I meet this child's needs . . ." and adapting creatively.
- ★ Making simple changes in the typical activities/routines in your program to meet the child's needs (using tactile play materials for a child with a vision impairment).
- ★ Eliminating program eligibility standards which have the effect of screening out children with disabilities, such as being toilet trained (some children may never qualify).
- ★ Including a question in your enrollment procedure that asks parents if there is anything you need to know that would help you care for their child (she goes to sleep with a pacifier or he wears hearing aids).
- ★ Working closely with parents and professionals to integrate the child's developmental and therapy goals into your daily routines and activities (using sign language to expand communication with children at snack or circle time).
- ★ Identifying and removing barriers to the child's participation (widening pathways between activity areas for walkers and wheelchairs or repositioning materials at the child's level for visual or motor activities). Costly structural changes are not required if affordable alternatives are available (providing pitchers and cups rather than lowering or raising a water fountain).
- ★ Using community resources to make accommodations to your program and/or provide needed services or equipment. (Materials may be donated and/or built; recruiting volunteers may enhance child/staff ratios.)
- ★ Spreading added costs (if any) among all of the families, just as you do other expenses. (Under certain circumstances, a federal tax credit/deduction is available for expenses associated with accommodating special needs.)

In general, the ADA places more emphasis on revising your child care practices and procedures than on making major physical modifications to your facility. If you are still unsure about your compliance, the following list describes practices which are not considered in compliance with the ADA:

- ★ Having policies or procedures that exclude children from your program or from regular activities based on disability or circumstances resulting from a disability, such as lack of language or mobility.
- ★ Excluding a child because you lack specialized skills, such as sign language, if training is readily available from parents or in your community at a manageable expense.
- ★ Excluding a child because of the intolerance of staff members, parents, or other children in your program.
- ★ Refusing to accept a child with a disability because of increased insurance rates.
- ★ Charging a higher fee solely because a child has a disability.

In fact, many child care providers will be in compliance with the ADA by continuing to do what they have always done—carefully and creatively responding to the unique and individual needs of children (and families) as they enroll in their programs. And, in most cases, you will have little difficulty—even in making physical modifications—when you make adaptations in response to one child at a time.

## Making It Work When "can do" becomes "can't do"

Because of the individual nature of each child (and each child care program) as well as the complexity of legal issues, you may wish to contact the following organizations when you feel you need specialized assistance in making accommodations for a particular child:

Office on the ADA - Civil Rights Division  
US Department of Justice  
P.O. Box 66738  
Washington, DC 20035-9998  
(202) 514-0301 (TDD 202-514-0383)

Arc  
National Headquarters  
P.O. Box 1047  
Arlington, TX 76004  
1-800-433-5255 (TDD 817-277-0553)

Child Care Law Center  
973 Market Street, Suite 550  
San Francisco, CA 94103  
(415) 495-5498

Occasionally, available resources along with your best efforts may not be enough to adapt your program to match a child's needs. In this case, the ADA describes a few acceptable reasons for not admitting a child. Be aware that any standard you impose must be applied equally to every child enrolled in your program. Telephone calls to professionals, expense estimates, parent conferences, and any other efforts to make accommodations must be carefully documented.

After thoroughly assessing the abilities and disabilities of the child and making efforts to obtain necessary resources, you may exclude a child if you can establish that any of the following conditions exist:

- providing the necessary services or equipment would impose an *undue burden* on your program. An *undue burden* is a significant difficulty or expense.
- the child's needs require your making physical accommodations that go way beyond what is *readily achievable*. *Readily achievable* means "able to be accomplished easily and without much difficulty or expense."
- meeting the child's need for equipment or services would necessitate a *fundamental alteration* or require *dramatic changes in the nature* of your program and would result, in essence, in a program quite different from the one you are running.
- the child's participation poses a significant risk to health or safety of self or others, which cannot be lessened by modifications in your policies, practices, or procedures or by the provision of equipment or appropriate services.

With rare exceptions, you will be able to accommodate and care for any child with a disability by taking reasonable steps, and that is all the ADA requires.

## A Child Care Provider's Question

**QUESTION:** *I really do believe in meeting each child's individual needs, so I am all for the ADA. But, I am still not sure how I can rationalize spending tons of money to "adapt" my program for one child who has a disability when there are so many other things that ALL of the children would benefit from.*

**ANSWER:** First, it is important to remember that implementing the Americans with Disabilities Act (ADA) does not mean that you have to spend "tons of money" on just one child. Essentially, the key elements of the ADA for young children and child care are that a) you may not deny access to enrollment in your program just because the child has a disability and b) you must make reasonable accommodations that meet the child's needs and allow participation in your regular daily routines and activities. Reasonable accommodations may be something like: learning the signs a child uses to communicate, attending a therapy session to understand how to handle and position the child, meeting with parents to learn the

proper way to feed the child, or incorporating a piece of adaptive equipment into your program.

Of course you do not want to deprive the other children in your program. However, many providers claim that improving their ability to individualize and adapt activities and materials for a particular child's needs has improved their sensitivity to ALL the children's needs. In fact, you will probably find that the new skills or different equipment you learn to use will benefit all the children in your program.

