

Below are questions parents frequently ask about their rights in securing quality child care for children with disabilities. The information is an interpretation of the Americans with Disabilities Act. The information provided below does not serve as legal advice but instead provides families with important information they might need to provide a learning environment that will help meet the individual needs of every child. Should you encounter the need for more formal advice we recommend that you seek legal advice or contact one of the resources listed towards the end of this chapter.

Can a provider say no to enrolling my child because he or she has a disability?

The ADA states that no child may be denied services based solely because they have a disability. If a parent has called inquiring about openings in a child care program the provider must answer questions without asking or inquiring about whether or not the child has a disability.

What kind of information can a provider ask about a child?

Prior to completion of the enrollment form child care providers should never inquire about the presence of a disability. The enrollment form used should not request any information that possibly could be used in a discriminatory way. After a child is actually enrolled providers may choose to use an additional form to obtain information about a child's special needs.

Can a provider charge more for caring for a child with a disability?

No. The Department of Justice guidelines make it very clear that child care programs may not charge more for children with disabilities to cover any increased cost the program incurs, this includes any associated cost for making accommodations.

What if a child with a disability needs more supervision? Can they still be enrolled?

In many circumstances, yes. Every child needs different levels of supervision at different times throughout the day. Since all children need more attention at times, programs cannot refuse a child based on the amount of perceived supervision a certain child will need. Please know that before reaching a decision about whether or not a child requires too much supervision, child care programs must first conduct an individualized assessment about the actual amount of supervision that will be needed. Before making any determination, programs must also look at making accommodation and adaptations that will make the child successful in their program. If the child still needs more supervision than the teachers can meet, program may need to consider the possibility of hiring an extra teacher. For large child care centers, this could be considered an appropriate option even though there will be an increase in cost. For family child care programs, hiring an extra staff person may be too much of a financial hardship and therefore not an option at all.

Can a provider place a child with a disability with younger children closer to their developmental age so they can be more involved in the program?

No. Placing children with disabilities with younger children based on their disability or developmental age is a form of discrimination. A child with a disability must be placed with children of the same chronological age unless the child's parents request otherwise. In addition, providers must also take reasonable steps to include them in all activities available to the other children their age.

What information can a provider share with the teachers, other staff in my program, or parents who approach them?

Confidentiality of every child is a basic right of all parents. As with any child, providers should share information with the teachers or staff that will be directly caring for the child. This would include any information that the teacher will need to know in order to work safely with the child. (This may also apply if the program has a kitchen staff. Staff in the kitchen should be informed of any special diet instruction a child may have.)

What is a provider's responsibility to children who use wheelchairs?

Their responsibility to a child in the wheelchair is the same as to other children. When a child care program has barriers that limit wheelchair access the barriers should be removed if it can be done without much difficulty or expense. Typically the law determines what is too difficult or too expensive based on the nature and cost of the action needed in comparison with the resources available to individual child care programs. Therefore, what might be an accepted accommodation for a large corporate child care center might not be the same for a small in-home program.

If a child needs medication or assistance with other medical issues, who needs to provide this support?

If medication is required to allow a child to attend a program successfully and the medication must be given while the child is in attendance, then the program is responsible for giving the medication according to the doctor's orders. This also includes issues like using a G-Tube to receive nutrition, time out of a wheelchair or in a different position to prevent pressure sores, suctioning, etc. Providing the items needed to meet a child's medical needs is the responsibility of the family. As long as reasonable care is used while following written medical instructions, programs should not be held liable for any resulting difficulty.

If the program's policy states that it does not provide assistance in the bathroom for children over the age of 3, what is the program's responsibility?

Programs that provide personal assistance with dressing or toileting skills to younger children in the program must reasonably modify their policies and provide needed bathroom assistance or personal care assistance to older children in the program as well. Unless the program provides the needed supplies to other children in the program, it is the family's responsibility to make

supplies available. If a program does not provide assistance in the bathroom for any child then they would need to determine if it is a reasonable modification to provide diapering for an older child who needs assistance because of a disability.

Does a provider have any special responsibilities to working with children who have aggressive behaviors?

Yes. The determination that a child may be aggressive and cause harm to them or others can not be made on generalizations or assumptions of behavior based on a disability. Programs should also not make assumptions about how a child with a disability is likely to behave based on their past experiences with other children with disabilities. The determination must be made on an individual assessment and considered separately. The assessment must include the specific behavior and the abilities of the child. Then providers must involve the family or other outside resources to find ways to work through a child's more difficult behaviors in a safer way. A trial period is needed. If reasonable efforts have been made and the child continues to harm themselves or others in the program, the child may be asked to leave the program. Documentation is needed to show history of aggression and attempts to work with other outside resources, the family and child throughout this process.

Will staff receive special training?

Generally, no, however, meeting with the family and the child before the child starts and throughout the child's time enrolled is typically enough to provide staff with the guidance and direction they need to successfully include a child into the classroom. Meetings with the family do not need to be formal and many times can be a simple daily report or phone call when new things come up. Most medical techniques, such as using a G-tube or catheter, can be taught in less than 15 minutes. Taking good notes about what works best while caring for the child or creating a list of simple tips can help new staff quickly become acquainted with each child's individual needs. Parents may also ask to be present for a period of time in order to ensure the provider is able to meet the needs of the child.