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# Growing Ideas - Laws that Support Early Childhood Education for All

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# GROWING IDEAS

## Laws that Support Early Childhood Education for All

### It's the law!

State and federal laws protect the rights of children with disabilities. These laws support the inclusion of children with disabilities in care and education settings. Care and education professionals should be familiar with these laws.

### What laws relate to early childhood education and child care for children with disabilities?

- The Americans with Disabilities Act (ADA) is a federal civil rights law. It prohibits discrimination against people with disabilities. Among other things, the ADA states that children with disabilities are **entitled** to equal **access** to all child care facilities (center-based and in-home family child care) and other early childhood programs such as Head Start and preschool programs. The ADA defines **disability** as a "physical or mental impairment" that substantially limits one or more **major life activities**.
- Section 504 of the Rehabilitation Act states that programs cannot discriminate against children and adults based on their disability. This federal law applies to public and private schools, Head Start, child care centers, and in-home family child care settings that receive any federal funds either directly or through a grant, loan, or contract.
- The Individuals with Disabilities Education Act (IDEA) is a federal education law that ensures children with disabilities have the same access to education as children without disabilities. IDEA requires states to provide a free, appropriate, public education to eligible children. IDEA states that special education services will be provided in the **least restrictive/natural environment**, including community settings in which children without disabilities participate.
- State civil rights/human rights laws are similar to the ADA but may provide more protection to people with disabilities.
- State child care licensing laws and regulations include **provisions** that prohibit discrimination against people with disabilities.



*Please note: terms in bold are defined in the glossary on page 3 of this tipsheet.*

## What does the ADA say?

- Children with disabilities must be given an equal opportunity to enroll and attend community child care programs.
- Program eligibility standards cannot screen out children with disabilities.
- Programs must make a case-by-case assessment of a child's individual needs to determine "**reasonable accommodations.**"
- Programs must make reasonable accommodations unless these accommodations **fundamentally alter** the nature of the program, or pose an undue burden (i.e., very difficult or expensive).
- If a child's behavior or situation poses a direct threat, a program must make an individual assessment and should develop a plan to support and document the child's situation and the program's attempts to make reasonable accommodations.

It's important that care and education professionals, parents, treatment providers and other partners work together to make the best decisions about a child's participation in group care. Providers know their programs and the benefits and challenges of group care. Parents know their child's interests, strengths and needs. Together they can make an informed decision that benefits the child and creates a pathway for success.

- Review written materials, including program philosophy/description, parent handbooks, admissions, discipline and dismissal policies, and employment practices to be sure they are nondiscriminatory.

- Evaluate how information is given to and gathered from families to support their child's participation in the program.
- Review the physical space to be sure that everyone can get in and out of the building and use materials, equipment, and toys.
- Learn about and use community resources to make accommodations and/or to support individual children.
- Meet and plan regularly with families.

*Disclaimer: This information is for broad educational purposes only. It is not and does not take the place of legal advice for any specific situation nor is it offered as such.*

## What are some examples of reasonable modifications under the ADA?

- Changes in policies, practices and procedures;
- Providing auxiliary aids and services (alternatives to written/spoken) to ensure communication and;
- Removal of physical barriers in existing program facilities.

## What does "reasonable" mean?

Reasonable will vary but, generally it means without much difficulty or expense.

## What can care and education professionals do to ensure these laws are being met in their settings?

- Review information about the laws to understand how to meet these requirements.
- Provide training to staff about the laws and how they apply to children, families and staff as part of orientation and regular staff trainings.

## Where to learn more:

See "Laws that Support Early Childhood Education for All" — Selected Resources" online at <http://www.ccids.umaine.edu/resources/ec-growingideas/inclawres/>

See "Laws that Support Early Childhood Education for All" — Virtual Toolkit" online at <http://www.ccids.umaine.edu/resources/ec-growingideas/inclawvtk/>

See "Admissions Policies and Practices that Build Inclusive Child Care Communities (for Parents and Guardians)" Tipsheet (PDF) available online at <http://ccids.umaine.edu/files/2014/02/admin-parents-tip-022714.pdf>

See "Admissions Policies and Practices that Build Inclusive Child Care Communities (for Providers)" Tipsheet (PDF) available online at <https://ccids.umaine.edu/files/2014/02/admiss-providers-tip-022714.pdf>

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## Glossary

**access** - to provide a wide range of activities and environments for every child by removing physical barriers and offering multiple ways to promote learning and development.

**disability** - (as defined under the Americans with Disabilities Act) a physical or mental impairment that substantially limits one or more of the major life activities of an individual. *Major life activities include the following: walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, and reading.*

**entitled** - a right to request or claim something. *Example: under IDEA, children are entitled to or granted the same access to education as children without disabilities.*

**fundamentally alter** - a change in the basic nature of the services offered by a program. A program does not need to change the nature or mix of goods that it typically offers to the public to allow access by an individual with a disability. *For example, a bookstore must be physically accessible to individuals with disabilities, but is not required to stock large print or Braille books.*

**least restrictive environment (LRE)** - terminology from the Individuals with Disabilities Education Act (IDEA) of 1990 (PL101-476) and its amendments that states that children with disabilities

should be educated in an environment that is not more restrictive than they need. LRE means that a student who has a disability should have the opportunity to be educated with non-disabled peers, to the greatest extent appropriate. This includes access to the general education curriculum, extracurricular activities, or any other program that non-disabled peers would be able to access.

**major life activities** - an activity that is necessary for caring for oneself or what a person can perform with little or no difficulty. This includes walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, and reading.

**provisions** - conditions agreed upon ahead of time.

**reasonable accommodation** - a modification in policies, practices, or procedures necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations. An example of a reasonable modification could be a program's modification of their toileting policy to accommodate the needs of a child with a disability. This would not fundamentally alter the nature of the program.



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