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### Selected Maryland Resources

**The Arc of Maryland**  
*(formerly Association for Retarded Citizens of Maryland)*  
49 Old Solomons Island Road  
Suite 205, Annapolis, Maryland 21401  
Phone: 410-571-9320

**Department of Human Resources, Child Care Administration**  
311 West Saratoga Street  
First Floor  
Baltimore, Maryland 21201  
Phone: 410-767-7805

**Maryland Developmental Disabilities Council**  
One Market Center  
300 West Lexington Street  
Box 10  
Baltimore, Maryland 21201  
Phone: 410-333-3688

**TECHNIC: Child Care Maryland Committee for Children, Inc.**  
608 Water Street  
Baltimore, Maryland 21202  
Phone: 410-752-7588 or 1-800-766-4900

**Governor's Committee on Employment of People with Disabilities**  
One Market Center  
300 West Lexington Street  
Box 10  
Baltimore, Maryland 21201  
Phone: 410-333-2263

**Maryland Infants & Toddlers Program**  
200 West Baltimore Street  
9th Floor  
Baltimore, Maryland 21201  
Phone: 410-767-0261 or 1-800-535-0182  
to obtain the telephone number for your local area 1-800-735-2258 for the hearing impaired

### Selected National Resources

**ADA Information Center**  
451 Hungerford Drive  
Suite 607  
Rockville, Maryland 20850  
Phone: 1-800-949-4232 or 301-217-0124

**Child Care Law Center**  
221 Pine Street  
Third Floor  
San Francisco, California 94104  
Phone: 415-394-7144

**Maryland Committee for Children**  
608 Water Street  
Baltimore, Maryland 21202  
Phone: 410-752-7588  
Fax: 410-752-6286  
E-mail: [mcc@mdchildcare.org](mailto:mcc@mdchildcare.org)  
<http://www.mdchildcare.org>



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## A parent's guide to



## The Americans with Disabilities Act and child care



### What is the Americans with Disabilities Act?

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Alicia is a four-year-old girl who desperately wants to play with children her own age, and her mother, about to return to work, is eager to find just the right child care for her. Born with Spina Bifida, the second most common birth defect after Down Syndrome, Alicia doesn't run or jump or use the toilet on her own, but she is able to enjoy social environments and can walk on her own even though the doctors said she never would. She is a bright, capable child, more alike than different from her peers.

Alicia, like thousands of children across the country, is a child with a disability in need of child care. Caring for children like Alicia in regular child care settings is not new and, in many cases, is not particularly different than caring for other children in care. Since its inception, child care has always focused on the needs of individual children.

The Americans with Disabilities Act (ADA) is a federal civil rights law. The Act states that people with disabilities are entitled to equal rights in employment, state and local public services, and public accommodations such as preschools, child care centers, and family child care homes.

This material was adapted with permission from materials developed by the Child Care Law Center in San Francisco, California and includes information on the Americans with Disabilities Act as it applies to private child care programs only.

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## Whom does the ADA protect?

The ADA protects any child or adult who:

- has a physical or mental impairment which substantially limits one or more major life activities such as speaking, seeing, learning, walking, etc.;
- has a history of this type of impairment (such as a child with cancer now in remission);
- is "regarded" as having the impairment (such as a child with facial scarring who has no limitations, but is stigmatized);
- is "associated with" any of the persons described above (so that a child seeking admission to a child care program cannot be denied simply because her brother has tested positive for HIV or because her mother uses a wheelchair).

## What impact does the ADA have on child care programs?

As of January 26, 1992, child care programs, both family child care homes and child care centers, regardless of whether or not they receive public subsidies, can no longer discriminate on the basis of disability. Instead, the ADA demands a "new way of thinking" in which the accommodations required by the individual are weighed against the resources available to the child care program to make any necessary accommodations. This evaluation is to be done on a case-by-case basis.

## What exactly does the ADA require child care programs to do?

The ADA requires that child care programs consider making changes in three aspects of their programs.

First, they must make reasonable modifications in their policies, practices, and procedures in order to accommodate the individual with a disability unless the modification would fundamentally alter the nature of the program and there are no reasonable alternatives.

Examples of modifications might include:

- eliminating prohibitions against serving children with disabilities in admission policies;
- eliminating per se restrictions which prevent children with disabilities who are not toilet trained from being considered for admission;
- providing alternative foods at lunch and snack time for children with certain food allergies; and/or
- making a schedule change for a child who takes medication and/or naps in the morning.

Secondly, child care programs are required to provide "auxiliary aids and services" (which are services and devices designed to ensure effective communication, such as interpreters, audiotapes, large print materials, etc.) for those with disabilities affecting hearing, vision, or speech, unless to do so would fundamentally alter the nature of the program or would impose an undue burden on the programs and there are no alternative steps that can be taken. An undue burden means a significant difficulty or expense.

Examples of auxiliary aids and services might include:

- purchasing large print books;
- learning some sign language or hiring an interpreter; and/or
- putting a Braille label on the cubby of a child who is blind.

Finally, architectural barriers which prevent access to services must be removed if removal is readily achievable. Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. When barrier removal is not readily achievable, programs must make the services available through alternative methods, if the alternative methods are themselves readily achievable.

## What types of personal assistance and devices must the child care program staff provide?

The ADA makes it clear that child care programs are not required to provide children with personal devices such as wheelchairs, eyeglasses, or hearing aids. However, child care programs are required to provide services such as assistance in eating, toileting, or dressing when they are ordinarily provided to other children in care.

## What safety considerations must programs take into account in determining whether a child will be admitted or maintained?

Child care programs may refuse to admit a child if they can document that the child will pose a direct threat to the health and safety of others in the child care setting. This is a very narrow exception.

Additionally, if the threat or risk can be eliminated without fundamentally altering the nature of the program, the child must be admitted or maintained in the program.

## Is it legal to charge extra for the costs of caring for a child with a disability?

No. The ADA is very clear that child care programs may not charge families with children with disabilities more than other families are charged to cover any increased cost the program incurs in making accommodations. To help defray any additional cost, child care programs are allowed to spread the cost to all families in the program.



## How can I help a child care program meet my child's needs?

- Share with the program all you can about what you think is important for the child care staff to know in caring for your child.
- Maintain communication with your provider throughout the time your child is in care.
- Facilitate communication between your child care provider and any other professionals who are helping your child (your written consent will be necessary).
- Let the child care program know about any community agencies or state or national organizations which provide resources and information regarding the type of disability or disabilities your child has.
- Assist the program in identifying any public or private subsidies, grants, or loans available to support their efforts.

## If I feel that a child care program is not complying with the requirements of the ADA, what can I do?

First, let the child care program know what your concerns are, and provide them with information about the legal requirements of the ADA. If you are still unable to get satisfaction, you might seek to mediate the dispute using a community mediation service. Alternatively, you have two options. You may hire a private attorney to bring an action against the program, or you can file a complaint with the Attorney General at the U.S. Department of Justice.

If you file a private action, you are entitled to a court order to stop the discrimination. If the Attorney General brings the suit, monetary damages and civil penalties may be sought.

*This brochure is not a substitute for individual legal advice. If you need specific legal information on how the ADA applies to you, seek the assistance of a lawyer who is familiar with ADA requirements.*