

## **AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION FOR CHILDCARE PROVIDERS**

### **Childcare Providers are Covered by the ADA**

The ADA<sup>1</sup> was passed by Congress to bring Americans with disabilities into mainstream American society. It states that individuals with disabilities have the same right to public and private services as all Americans. The act covers adults and children with many permanent disabilities such as mental retardation, autism, and hearing impairments.<sup>2</sup> As a childcare provider you must be aware of this law. You are required to comply with the ADA because you provide services to the public.<sup>3</sup>

Some parts of the ADA are quite complex, but in simple terms, it requires almost all service providers and businesses to take reasonable steps to serve people with disabilities in their programs. This means that children and adults with disabilities receive the same services that are available to others. Virtually all childcare providers must comply with the ADA. Private providers that serve the public as businesses are covered by Title III of the ADA.

Parents who believe that their children's (or their own) rights under the ADA have been violated by a childcare provider can file a federal lawsuit and/or a complaint with the Bureau of Oregon Labor and Industry (BOLI.)

### **ADA Reasonable Accommodations for Children with Disabilities**

As a child care provider, you cannot refuse to serve children with disabilities or their families simply because the children have disabilities, or because they might require more time or attention from you or your staff. Typical reasonable steps you might be required to take include providing additional training for staff, obtaining information or consultation from a professional with knowledge of the child's disability, reassigning staff responsibilities, hiring additional staff, or making physical changes to accommodate a wheelchair.

A child with autism for instance, might require 1-on-1 assistance during transition times from one activity to another. Even if you are a family child care provider who works alone you can make reasonable accommodations. For example, serving a child with emotional disabilities might require that you follow a behavior plan designed to minimize emotional outbursts or anxiety. A child's parent, teacher or therapist can help you make these types of necessary accommodations.

Under the ADA you cannot charge more to care for a child who has a disability. Similarly, you cannot add charges for serving a child with disabilities unless the additional charge applies equally to children without disabilities. There are exceptions. For instance, courts have decided that you can charge more to serve children with disabilities who wear diapers, but only **if** you charge more for all children who wear diapers. The same principle generally applies to other "extra" charges.

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<sup>1</sup> The Americans with Disabilities Act is Public Law 101-336 and can be found in the U.S. Code at 42 USC 12101 et. seq.

<sup>2</sup> The ADA definition of a disability is a physical or mental impairment that substantially limits one or more major life activity. Temporary impairments such as broken arms and colds are not covered by the ADA.

<sup>3</sup> Centers that are operated by religious organizations are not generally subject to ADA requirements. Title II of the ADA applies to government agencies and other groups or businesses (including childcare providers) who receive government money.

