Child Care Centers and the ADA

What the ADA asks of child care programs when a child or parent with a disability enrolls, with the questions providers ask most

Who this is for: Owners, directors and staff of child care centers, family child care homes, preschools and before- and after-school programs, and the public agencies that run child care programs.

Not covered here: Employment of your own staff (ADA Title I), early intervention and special education services under IDEA, and state child care licensing rules, which vary by state and can add duties.

Current as of November 17, 2026. Federal law. Each section ends with the sources it rests on.

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In brief

- Almost all privately run child care providers must comply with ADA Title III, whatever their size, including small home-based programs. Child care run by a government agency follows Title II.
- Programs actually run by a religious organization are exempt from Title III. A private program that only rents space from a congregation is covered.
- A center can't assume a child's disability is too severe. It must make an individualized assessment of whether it can meet the child's needs without fundamentally altering its program.
- A child can be excluded only if the child poses a direct threat to others' health or safety, based on an individualized assessment, or if the child's presence or necessary care would fundamentally alter the program.
- Higher insurance rates aren't a reason to turn a child away, and a center can't charge extra for a service the ADA requires, such as a simple blood glucose check.
- Federal money brings Section 504 into play as well, and the HHS rule speaks to child care directly.

Where these rules come from

This guide draws on two kinds of sources and keeps them apart. The **regulations**, 28 CFR Part 36 for private programs and Part 35 for public ones, are binding law. The Justice Department's **question-and-answer document**, "Commonly Asked Questions about Child Care Centers and the Americans with Disabilities Act" (last updated February 28, 2020), shows how the department reads those rules for child care. ADA.gov states that documents like it have no legally binding effect, so where the two differ, the regulation controls.

Source: 28 CFR Parts 35 and 36; ada.gov, Child Care Centers and the ADA (Feb. 28, 2020), with its legal-effect statement

Which law applies to your program

Your program	The law that applies
A private center, for-profit or nonprofit, of any size	ADA Title III. "Day care center" is one of the twelve categories of public accommodation.
A family child care business run in a home	Title III, for the part of the home used for the program, including space that's also living space: the front walk, the entry and hallways, the indoor and outdoor areas the children use, and the restrooms.
A program run by a city, county, school district or state agency, such as an extended-day or summer program	ADA Title II
A program run by a religious organization, or an entity it controls	Exempt from Title III. Section 504's text has no comparable exemption, so a religious program that takes federal money should get its counsel's view on coverage.
A program funded by a federal grant, such as Head Start, or by federal money passed through a state or city	Section 504, under the funding agency's rule, in addition to Title II or III

Source: 28 CFR 36.104, "Place of public accommodation," paragraph (11), and "Private entity"; 28 CFR 36.207; 42 U.S.C. 12187; ada.gov Q1-Q2; 29 U.S.C. 794; 45 CFR 84.10, "Recipient"

The Justice Department's example of the rented-space rule: a private program that operates out of a church, pays rent and has no other connection to the church must comply with Title III, and the church doesn't have to.

Source: ada.gov, Child Care Centers and the ADA, Q2

The individualized assessment

When a child with a disability applies, the decision turns on one process. The Justice Department's answer is that a center can't assume a child's disability is too severe. It has to make an individualized assessment of whether it can meet this child's particular needs without fundamentally altering its program, and it can't act on "unfounded preconceptions or stereotypes" about what children with disabilities can do or how much help they need. The department tells providers to talk with the parents or guardians and with other professionals who work with the child, such as educators or health care providers.

Source: ada.gov, Child Care Centers and the ADA, Q4; 28 CFR 36.301(a), 36.302(a)

A practical sequence:

1. Ask the family what the child needs during the day and how they handle it at home.
2. With the family's permission, hear from the child's teacher, therapist or doctor about specific routines.
3. List the changes to policies, routines or equipment that would let the child take part, and what each would take.
4. Decide, for this child, whether a change would fundamentally alter the program, and whether any risk to others is a direct threat that a reasonable change can't reduce.
5. Write down what you decided, why, and what you offered instead of anything you declined.

> **Two things the ADA doesn't ask.** A center that's full doesn't have to take a child with a disability ahead of the waiting list. And the ADA generally doesn't require a center to hire more staff or provide constant one-to-one supervision of a particular child, though a child who needs one-to-one help can't be excluded solely for that reason if the child can be integrated without fundamentally altering the program, for example when a personal assistant is provided at no cost to the center.

Source: ada.gov, Child Care Centers and the ADA, Q6-Q7

When a child can be excluded

Only on two grounds:

- **Direct threat.** A child who poses a substantial risk of serious harm to the health or safety of others doesn't have to be admitted. The decision can't rest on generalizations about a disability. It must be an individualized assessment based on current medical knowledge or the best available objective evidence, looking at the nature, duration and severity of the risk, how likely harm is, and whether reasonable changes or aids would reduce it. A center may ask all applicants whether a child has a disease communicable through the incidental contact expected in child care.
- **Fundamental alteration.** A change that would fundamentally alter the nature of the program isn't required.

These are the federal limits. State and local laws can give children more protection, and the ADA doesn't override a law that does.

Source: 28 CFR 36.208, 36.302(a); 42 U.S.C. 12201(b); ada.gov, Child Care Centers and the ADA, Q3, Q4, Q8

Behavior follows the same rule. The Justice Department's answer to a child who hits and bites starts with working with the parents on reasonable ways to curb the behavior, such as extra naps, time out, or changes in diet or medication. If reasonable efforts have been made and the child continues to hit and bite children or staff, the child may be expelled. Each situation is considered on its own facts, not on the center's experience with other children with disabilities.

Source: ada.gov, Child Care Centers and the ADA, Q9

Everyday care: what the Justice Department says

Situation	The Justice Department's answer
A "no medication" policy	Can't be used to refuse a child with a disability. Giving medication is sometimes necessary to make the program accessible. The Justice Department says a center that uses reasonable care in following the doctor's and parents' written instructions generally shouldn't be held liable, though state laws may differ. (Q14)

Situation	The Justice Department's answer
Diapering a child over three because of a disability	Generally required where the center diapers younger children and can do it without leaving other children unattended. A center that doesn't normally diaper weighs whether younger children there sometimes need toileting help, whether regular diapering would leave other children unattended, and whether it would need a diapering table or other equipment. A center that never gives toileting help to any child isn't required to start, but can't exclude the child if other arrangements, such as a parent or personal assistant, can be made. (Q15-Q16)
HIV or AIDS	A child can't be excluded solely for that reason. Use universal precautions, such as gloves, with every child's blood or bodily fluids. (Q17)
Intellectual disability	Take reasonable steps to include the child in every activity offered to others, such as group sings and playground trips. Segregating children with disabilities isn't acceptable. (Q18)
Severe allergies to bee stings or foods	Generally must be admitted, with the center prepared to respond, for example with epinephrine the parents provide. (Q19)
Diabetes	Generally must be admitted. With written authorization from the parents and the child's doctor, staff follow their directions for simple care, such as checking blood glucose before lunch and when the child shows signs of low blood sugar. The parents are responsible for testing equipment, training and special food. (Q20)
Leg braces and similar help	Generally a reasonable modification, unless it would leave other children unattended or require a licensed health professional. (Q21)
Placing an older child in a younger room	Generally not. Place children in their age-appropriate room unless the parents agree otherwise. (Q12)

Source: ada.gov, Child Care Centers and the ADA, Q12-Q21. The Title III rule doesn't require personal services such as toileting help in general (28 CFR 36.306), which is why the diapering answers turn on what the center already does for other children.

Service animals

A service animal isn't a pet. A center with a "no pets" rule makes an exception for a service animal: a dog individually trained to do work or perform tasks for a person with a disability. Staff may ask only whether the dog is required because of a disability and what work or task it's trained to perform, and generally only when that isn't obvious. The dog must be under its handler's control, and the center isn't responsible for its care or supervision. With a young child, settle before the first day who the handler is and how the dog will be handled.

Source: 28 CFR 36.104, "Service animal"; 28 CFR 36.302(c)(1), (4)-(6); ada.gov Q11

Communicating with parents and children

The duty to communicate effectively runs to the families a center serves, not only the children. When a parent is deaf, the right aid depends on the nature, length and complexity of the conversation: a long parent-teacher conference may call for a different aid, such as a qualified interpreter, than the quick exchanges at drop-off and pickup. Ask the parent what works; the rule expects that, though the final choice is the center's as long as it works. A center that receives HHS funds must also give primary consideration to the parent's request under the HHS Section 504 rule. The center can't charge the parent for the interpreter or any other aid, can't require the parent to bring someone to interpret, and can't rely on the child or another minor to interpret except in an emergency involving an imminent threat to someone's safety or welfare when no interpreter is available. A particular aid isn't required if it would

be an undue burden, meaning significant difficulty or expense measured against the resources of the center or its parent company. Then the center provides another aid, if one exists, that gets the parent its services to the maximum extent possible.

Source: 28 CFR 36.303(c)(1)(ii), (c)(2), (c)(4), (h); 28 CFR 36.301(c); 45 CFR 84.77(b)(2); ada.gov, Child Care Centers and the ADA, Q10

Money questions

Insurance

A higher premium isn't a valid reason to exclude a child. The regulation says a public accommodation can't refuse to serve someone because its insurer conditions coverage or rates on the absence of people with disabilities, and the Justice Department's answer is to treat the extra cost as overhead spread across all families.

Source: 28 CFR 36.212(c); ada.gov, Child Care Centers and the ADA, Q5

Fees

A center can't charge a surcharge for something the ADA requires. It can charge for services beyond what the law requires: if a child needs complicated procedures only licensed medical staff can perform, and the center chooses to provide them anyway, it may charge for them. A simple procedure the ADA does require, such as a finger-prick blood glucose test, can't carry an extra charge.

Source: 28 CFR 36.301(c); ada.gov, Child Care Centers and the ADA, Q13

Tax help

Two federal tax provisions can offset the cost. A small business with $1,000,000 or less in gross receipts in the preceding tax year, or, if that test doesn't apply, no more than 30 full-time employees, can claim a credit of 50 percent of eligible access expenditures above $250 and up to $10,250, a maximum credit of $5,000 a year, for costs such as barrier removal, interpreters and adaptive equipment. The credit doesn't cover barrier removal at a facility first placed in service after November 5, 1990, the day the credit was enacted. Any business can elect to deduct up to $15,000 a year in qualified barrier removal costs.

Source: 26 U.S.C. 44(a)-(c), including (c)(4), and source credits (Pub. L. 101-508); 26 U.S.C. 190(a), (c); ada.gov Q24

Buildings and playgrounds

An existing private center has an ongoing duty to remove architectural barriers where that's readily achievable, easily accomplished without much difficulty or expense, even if no one with a disability is enrolled today. Offset hinges to widen a door, grab bars in a toilet stall and rearranged furniture are the kinds of steps the regulation and the Justice Department give as examples. A center run by a government agency must make its program accessible, within the Title II rule's limits for fundamental alterations and undue burdens, and that sometimes means changing the facility.

Source: 28 CFR 36.304(a)-(b); 28 CFR 35.150(a); ada.gov, Child Care Centers and the ADA, Q22

New construction and alterations must be accessible. Under the Title III rule they follow the 2010 ADA Standards when the last application for a building permit was certified complete (or, where the government doesn't certify, received) on or after March 15, 2012, or, with no permit, when physical work started on or after that date. The Justice Department's answer puts it more simply: centers designed and built for first occupancy after March 15, 2012. The 2010 Standards include requirements for play areas,

and existing play areas don't get the safe harbor that protects elements built to the 1991 Standards, so a playground goes on the barrier-removal list.

Source: 28 CFR 36.401, 36.406(a)(3); 28 CFR 36.304(d)(2)(iii)(H); ada.gov Q23

If you take federal money

A program that receives federal financial assistance, directly or passed through a state or city, is covered by Section 504 as well. The HHS rule, which applies to recipients of HHS money, says a recipient that provides child care may not exclude qualified children with disabilities on the basis of disability, and must "take into account the needs of such persons" when deciding the aids, benefits or services it provides. An HHS recipient with fifteen or more employees must also designate a Section 504 coordinator and adopt a grievance procedure. Its websites and apps, such as an online enrollment portal, must meet WCAG 2.1 Level AA beginning May 11, 2027 (May 10, 2028 for recipients with fewer than fifteen employees). Title III has no rule like that for private centers.

Source: 45 CFR 84.38, 84.7(a)-(b), 84.84(b); 45 CFR 84.10, "Recipient"

Subsidy payments are a harder question. The federal child care subsidy law says a certificate a parent uses to pay for care isn't a grant or contract for purposes of that law, and its nondiscrimination section deals with religion, not disability. Those provisions don't settle whether a center paid through certificates is a Section 504 recipient, so a center that takes them should get its state lead agency's position in writing. Title III applies to a private center either way.

Source: 42 U.S.C. 9858n(2); 42 U.S.C. 9858l

Our Section 504 guide covers how to tell whether your money is federal and what each agency's rule requires.

How it's enforced

The Justice Department describes its approach as investigating complaints and trying to resolve them through informal or formal settlements, and says it has resolved matters with child care centers through settlement agreements and has sued child care centers over ADA violations. Where voluntary compliance fails, it may seek injunctive relief, damages for the people harmed and civil penalties. Families can also sue under Title III, where a court can order changes and award attorney's fees but can't award money damages.

Source: ada.gov, Child Care Centers and the ADA, Q25-Q27; 28 CFR 36.501, 36.503-36.505; 42 U.S.C. 12188(a)(1); Congressional Research Service, LSB11110

A director's checklist

1. Know which law covers you: Title III, Title II, Section 504, or a combination.
2. Write an enrollment procedure that runs every request through the individualized assessment above, with a named decision-maker and a written result.
3. Review your medication, toileting, food, behavior and service animal policies against the table above, and against your state licensing rules.
4. Set up how you'll arrange an interpreter or other aid for a parent, and make sure no one is ever billed for it.
5. Walk the building and playground for barriers that are readily achievable to remove, write a plan with dates, and claim the tax credit where it fits.

6. If you take federal money, read your funding agency's rule. Under the HHS and Education Department rules, a recipient with fifteen or more employees names a Section 504 coordinator and adopts a grievance procedure.

Where to get answers

- **Justice Department ADA Information Line:** 800-514-0301 (voice), 1-833-610-1264 (TTY), weekdays.
- **ADA National Network,** ten regional centers that answer ADA questions: 800-949-4232 (voice and TTY), adata.org.
- **U.S. Access Board,** on the accessibility standards: 800-872-2253 (voice), 800-993-2822 (TTY).
- **Equal Employment Opportunity Commission,** for questions about your own staff: 800-669-4000 (voice), 800-669-6820 (TTY).

Source: Phone numbers as published on ada.gov, Child Care Centers and the ADA, Q29 (read November 17, 2026)

Common questions

We're a small home-based program. Does the ADA apply to us?

Yes. The Justice Department says almost all child care providers, regardless of size or number of employees, must comply with Title III, including small home-based centers that some state laws don't reach. The part of your home used for the program is covered.

Source: ada.gov, Child Care Centers and the ADA, Q2; 28 CFR 36.207

Do we have to hire an aide for a child who needs one-to-one help?

Generally not. The ADA generally doesn't require more staff or constant one-to-one supervision. But you can't exclude the child solely because of that need if the child can be integrated without fundamentally altering the program, for example with a personal assistant the family or a government program provides at no cost to you.

Source: ada.gov, Child Care Centers and the ADA, Q7

Can we charge more for a child who needs extra help?

Not for anything the ADA requires. You may charge for services that go beyond the law's requirements.

Source: 28 CFR 36.301(c); ada.gov Q13

Our insurer says rates will go up. Can we decline the child?

No. Treat the cost as overhead.

Source: 28 CFR 36.212(c); ada.gov Q5

A child keeps hurting other children. Can we ask the family to leave?

Possibly, after reasonable efforts with the family haven't worked and the behavior continues to put others at risk. Decide on this child's facts, not on assumptions about a diagnosis.

Source: ada.gov, Child Care Centers and the ADA, Q9; 28 CFR 36.208

Primary sources

- ADA.gov, Commonly Asked Questions about Child Care Centers and the ADA

- 28 CFR Part 36, the Title III regulation
- 28 CFR Part 35, the Title II regulation
- 45 CFR 84.38, HHS Section 504 rule on child care
- 42 U.S.C. 12187, the religious organization exemption (govinfo)
- 26 U.S.C. 44, disabled access credit
- ADA National Network

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