



Child Care & the ADA: Q&A for Grandparents

Provided by the Rocky Mountain ADA Center

I have a disability and my grandchild attends a local daycare center. What are my rights as a person with a disability?

The ADA requires that child care providers not discriminate against persons with disabilities on the basis of disability, that is, that they provide children, parents, and family members with disabilities with an equal opportunity to participate in the child care center's programs and services. Specifically:

- Centers have to make *reasonable modifications* to their policies and practices to integrate children, parents, guardians, and grandparents with disabilities into their programs unless doing so would constitute a *fundamental alteration*.
- Centers must provide appropriate auxiliary aids and services needed for *effective communication* with children or adults with disabilities, when doing so would not constitute an *undue burden*.
- Centers must generally make their facilities accessible to persons with disabilities. Existing facilities are subject to the *readily achievable* standard for barrier removal, while newly constructed facilities and any altered portions of existing facilities must be *fully accessible*.

What rights do grandparents of children with disabilities have under the ADA?

Children with disabilities are protected by the ADA. Grandparents of children with disabilities are protected if they are discriminated against because of their association with a child with a disability or if they have a disability. If a child care center does not meet ADA requirements, grandparents of children with disabilities can file a formal complaint. A civil action case may be brought against the center in federal court and the Department of Justice can implement a fine of up to \$50,000 for a first violation.



My daughter had an unexpected emergency at work and asked me to pick up my grandson at daycare. The daycare is on the second floor and there is no elevator. As a wheelchair user, I cannot access the second floor. How can I pick up my grandson?

Alternatives to barrier removal in existing facilities can include having one of the attendants bring your grandchild downstairs to meet you there.

My granddaughter's child care provider is having an Open House. There will be guest speakers and special presentations made to the children and the families are invited to attend. I am deaf and want to take part in the Open House. May I ask the child care center to provide and interpreter?

It depends. Child care centers must provide effective communication to the customers they serve, unless doing so poses an undue burden. The person with a disability should be consulted about what types of auxiliary aids and services will be necessary in a particular context, given the complexity, duration, and nature of the communication, as well as the person's communication skills and history. Different types of *auxiliary aids and services* may be required for lengthy parent-teacher conferences than will normally be required for the types of incidental day-to-day communication that take place when children are dropped off or picked up from child care. A particular auxiliary aid or service is not required by title III if it would pose an *undue burden*, that is, a significant difficulty or expense, relative to the center or parent company's resources.

Can any of the costs incurred be passed on to the families of children with disabilities?

No. Title III prohibits centers from charging parents for the extra measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters. However, such costs can be passed on to all participants like any other overhead cost.



As a person with a disability, I use a service animal. I recently went to have lunch with my grandchild at his day care center, which is encouraged by the center. The Director refused to allow me to enter with my service animal. Is this legal?

No. A service animal is not a pet, and the ADA requires the Center to modify its "no pets" policy to allow the use of a qualified service animal by a person with a disability. They must make an exception to their general "no pets" rule for service animals.

My granddaughter's child care provider enlists grandparents to do volunteer work with the kids for different projects such as reading, playing or watching the kids on the playground. Can I be excluded from participating in this program because I have a disability?

No. Centers have to make *reasonable modifications* to their policies and practices to integrate children, parents, guardians, and family members with disabilities into their programs unless doing so would constitute a *fundamental alteration*.

For more information, visit the Rocky Mountain ADA Center website at <http://www.adainformation.org/childcare>. To contact the ADA Center directly, e-mail adainfo@adainformation.org or call (800) 949-4232.