



The Legal Obligations of Foster Care and Adoption Agencies when Working with Prospective Parents with Disabilities

Introduction

Prospective parents with disabilities often face bias and speculation about their parenting abilities and may be denied the opportunity to adopt or foster a child simply because they have a disability. Sometimes foster care and adoption agencies screen out prospective parents with disabilities. Foster care and adoption agencies may not understand their legal obligations to provide reasonable accommodations to prospective parents with disabilities. For example, agencies must provide documents in accessible formats if requested, such as in Braille.

In this brief, we describe the legal obligations of public and private foster care and adoption agencies when working with prospective parents with disabilities. This brief also offers additional resources.

Overview of the ADA and Section 504 of the Rehabilitation Act

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) apply to the foster care and adoption systems. Title II and Title III of the ADA, respectively, apply to public entities that are administered or funded by state or local governments, including public foster care and adoption agencies, and private foster care and adoption agencies. In addition, Section 504 applies to entities that receive federal funding (e.g., child welfare agencies). Both the ADA and Section 504 prohibit discrimination against prospective parents with disabilities. Both the ADA and Section 504 require foster care and adoption agencies to provide reasonable accommodations to prospective parents with disabilities. These mandates apply to every aspect of the foster care and adoption processes (e.g., application, home study, and interview).

Assessments of Parents and Prospective Parents with Disabilities

Both the ADA and Section 504 require foster care and adoption agencies to individually assess prospective parents with disabilities rather than making decisions based on stereotypes. In other words, any assessment being conducted to assess a prospective parent's capabilities must be individualized. For example, a child welfare agency cannot prohibit a person who uses a wheelchair from becoming a foster care parent because of their assumptions about the prospective parent's ability to care for a child. Foster care and adoption agencies are required to provide reasonable accommodations to ensure all assessments are accessible.

Reasonable Accommodations and Effective Communication

Both the ADA and Section 504 require prospective parents to have the same opportunities to participate in programs and services equal as nondisabled prospective parents. Both the ADA and Section 504 require foster care and adoption agencies to have practices, policies, and procedures to accommodate prospective parents with disabilities. An example of a reasonable accommodation is providing parent training in a wheelchair-accessible location.

Similarly, foster care and adoption agencies must provide auxiliary aids and services, if necessary, to ensure that prospective parents with disabilities can effectively communicate with the agencies. Examples include sign language interpreters, documents in Braille, and documents in plain language. Foster care and adoption agencies should work with prospective parents with disabilities to determine what auxiliary aids or services the parents need.

Foster care and adoption agencies cannot charge fees to prospective parents with disabilities to provide reasonable accommodations.

Useful Resources

The following resources provide additional information about how adoption and foster care agencies can work with prospective parents with disabilities:

- U.S. Department of Health and Human Services and U.S. Department of Justice, [*Protecting the Rights of Parents and Prospective Parents with Disabilities: Technical Assistance for State and Local Child Welfare Agencies and Courts under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act*](#)
- AdoptUSKids, [*Resources for Parents with Disabilities*](#)
- Christopher & Dana Reeve Foundation, [*Parenting with a Disability: Knowing Your Rights Toolkit*](#)