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Parents with Disabilities in Child Welfare Agencies and Courts

Question: How many parents with disabilities are there in the United States?

Answer: There are over four million parents with disabilities in the U.S. (National Council on Disability, 2012).

Question: What are some of the risks parents with disabilities face in the child welfare system?

Answer: Parents with disabilities are at a higher risk of being referred to child welfare services. Once a part of the system, they are more likely to lose their parental rights. Individuals with disabilities who are seeking to foster or adopt a child also encounter significant barriers.

Question: What must child welfare agencies and courts do to prevent discrimination against parents with disabilities?

Answer: Child welfare agencies and courts must have policies, practices and procedures to prevent discrimination against parents with disabilities in the child welfare system.

Programs and Services

Question: What do the ADA and Section 504 of the Rehabilitation Act of 1973 require child welfare agencies and courts to provide?

Answer: The ADA and Section 504 require child welfare agencies and courts to provide full and equal access to their programs, services and activities, including:

- Investigations
- Witness interviews
- Assessments



- Provisions of in-home services
- Removal of children from their homes
- Case planning and service planning
- Visitation
- Guardianship
- Adoption
- Foster care
- Reunification services
- Child welfare hearings
- Custody hearings
- Proceedings to terminate parental rights

Reasonable Modifications to Policies, Practices and Procedures

Question: What are child welfare agencies and courts required to do to make programs and activities fair and equal to parents with disabilities?

Answer: Child welfare agencies and courts must make reasonable modifications to their policies, practices and procedures to ensure equal access to their programs and activities unless the modification would result in a fundamental alteration. For example, a child welfare agency may provide a course on parenting skills that is offered on a weekly basis. A parent with an intellectual disability may learn skills through repetition and a class that meets once a week may not be sufficient to meet his or her learning needs. As a result, an agency could modify the training to include multiple classes over a longer period of time to meet this parent's needs.

Effective Communication

Question: What must child welfare agencies and courts do to provide effective communication for parents with disabilities?

Answer: Child welfare agencies, courts, and private organizations, such as an adoption agencies that contract with a child welfare agency, must provide appropriate auxiliary aids and services to ensure that individuals with speech, hearing and vision disabilities



understand what is said or written and can communicate effectively. For example, courts must provide auxiliary aids and services to a parent who is deaf during a parental rights proceeding so that he or she can participate in the process in a similar manner to that of an individual who is not deaf. The agency or court must pay for auxiliary aids or services.

Individualized Assessment

Question: How should child welfare agencies and courts evaluate parents with disabilities?

Answer: Child welfare agencies and courts must evaluate each case individually. For example, during an emergency investigation about removing a child from the home, the assessment must be based on facts and objective evidence, not on a stereotype that a parent with a disability is incapable of safely and adequately caring for a child.

Facility Access

Question: What obligations do child welfare agencies and courts have for providing accessible facilities to parents with disabilities?

Answer: Child welfare agencies and courts must ensure that facilities are accessible to individuals with disabilities so they can participate in programs, services and activities. The agency or court does not need to make each of their existing facilities accessible; rather it must be able to provide its services, programs or activities at an accessible site. For example, if a parent who uses a wheelchair has court-ordered supervised visits with his or her child, a wheelchair-accessible visitation area must be provided.

How to File a Complaint

Question: How does a parent with a disability file a complaint regarding disability discrimination by a child welfare agency or court?

Answer: If you believe you have been discriminated against, you may file a complaint with the Disability Rights Section in the Department of Justice by mail or online.



To file an ADA complaint by mail:

US Department of Justice
950 Pennsylvania Avenue NW
Civil Rights Division
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530

To file an ADA complaint online: <http://www.ada.gov/complaint/>

You may also file a complaint with the Office of Civil Rights at the Department of Health and Human Services (HHS). For information, visit <http://www.hhs.gov/ocr/civilrights/complaints/index.html>

Resources

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 (U.S. Department of Justice and Department of Health and Human Services): http://www.ada.gov/doj_hhs_ta/child_welfare_ta.html

For general information about civil rights and child welfare, visit the **Department of Health and Human Services** website at <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/adoption/index.html>

The Children’s Bureau, in the U.S. Department of Health and Human Services, focuses on improving the lives of children and families through programs that reduce child abuse and neglect, increase the number of adoptions, and strengthen foster care. For information, visit <http://www.acf.hhs.gov/programs/cb>

The National Disability Rights Network is a nonprofit membership organization that works to improve the lives of people with disabilities by guarding against abuse and advocating for basic rights and accountability. For information, visit <http://www.ndrn.org> .



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The Americans with Disabilities Act National Network (ADANN) provides information, guidance and training on the ADA. For more information, call **1-800-949-4232** or visit our website at <http://adata.org/>. All calls are confidential.

References

National Council on Disability (U.S.). (2012). *Rocking the cradle: Ensuring the rights of parents with disabilities and their children*. Washington, DC: National Council on Disability. <https://www.ncd.gov/publications/2012/Sep272012>.

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<http://www.adapacific.org>

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