



# The Rights of Prospective Parents with Disabilities in Adoption and Foster Care

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## What disability rights laws protect people with disabilities who want to adopt or become foster parents?

The ADA and Section 504 of the Rehabilitation Act protect parents with disabilities in a variety of circumstances. Here are some examples:

- State and local government agencies, such as schools, child welfare agencies, courts, public transportation, and public hospitals, must comply with the mandates of Title II of the ADA.
- Privately owned businesses that are open to the public, such as clinics, hospitals, attorneys' offices, restaurants, and sporting venues, must comply with the mandates of Title III of the ADA.
- Section 504 of the Rehabilitation Act covers agencies and organizations that receive federal funding, such as child welfare agencies, hospitals, and universities.

All of these agencies and organizations must comply with the legal mandates described above.

## What is adoption?

Adoption creates a legal relationship between the parent and child.

In the United States, there are both public and private adoptions.

- Public adoptions usually involve children who are in foster care.
- Private adoptions occur through agencies, facilitators, or attorneys.

Courts and agencies consider a list of factors when deciding if someone can adopt, including age, financial stability, family composition, and physical and mental health.

### Protections for Parents with Disabilities Under the ADA and Section 504 of the Rehabilitation Act

#### Title II of the ADA

State and Local Governments



Public Schools



Courts



Public Transportation



Public Hospitals



Attorneys' Offices



Sporting Venues



Restaurants



Private Hospitals & Clinics

#### Section 504 of the Rehabilitation Act

Agencies and Organizations That Receive Federal Funding



Hospitals



Universities



Child Welfare Agencies

Some people choose to adopt children outside of the United States, which is called international adoption. Each country decides who is eligible to adopt from their country.

## What is foster care?

Foster care is a temporary service that is provided by child welfare agencies for children who cannot live with their families.

- People can become foster parents by applying with their local agency.
- Foster parents do have to meet certain criteria, which is decided by the agency
- Sometimes foster parents eventually adopt the child.



## Who is protected under the ADA and Section 504 of the Rehabilitation Act?

### Definition of Disability under the ADA and Section 504

- Physical or mental condition that substantially limits  $\geq 1$  major life activity
- Record of disability
- Being perceived as disabled



The ADA and Section 504 of the Rehabilitation Act protect people if they have a physical or mental impairment that substantially limits one or more major life activities.

- Examples of physical or mental impairments include cerebral palsy, intellectual disabilities, muscular dystrophy, diabetes, cancer, HIV, epilepsy, schizophrenia, bipolar disorder, heart disease, blind or low vision, and Deaf or hard of hearing.
- Examples of major life activities include caring for oneself, working, reading, learning, walking, hearing, and seeing.

The ADA and Section 504 of Rehabilitation Act also protect people who have a record of having an impairment. For example, adoption and foster care agencies cannot discriminate against someone who had cancer but is now in remission. They do not have a disability but because of their history they are being treated like it.

Finally, the ADA and Section 504 of Rehabilitation Act protect people who are being regarded as having an impairment. For instance, Adoption and foster care agencies cannot discriminate against someone they have burns on their face. The burns are not a disability if they do not affect their ability to do things. However, they are still being treated differently.

## What are my rights as an adoptive or foster parent with a disability?

- Agencies cannot refuse to let you adopt or foster just because you have a disability.
- You are entitled to an equal opportunity to participate in programs and services for which you are qualified.
- You are entitled to reasonable modifications to policies and procedures.
- You are entitled to equally effective communication including any needed auxiliary aids and services, such as sign language interpreters, captioning, videophones, readers, Braille, and audio recordings.
- Most buildings should be fully accessible to people with disabilities, and all new buildings must be completely accessible.

### Requirements of the ADA and Section 504



Nondiscrimination



Integration



Equal Opportunity



Reasonable Modifications



Effective Communication



Accessibility and Usability

## What are examples of disability discrimination against adoptive or foster parents with disabilities?

- Buildings that are not wheelchair accessible.
- Not providing an sign language interpreter, computer-assisted real-time transcription (CART) services, or documents in Braille.
- Not providing a reasonable modification, such as an accessible parenting evaluation.
- Refusing to let a person with a disability bring their service animal inside.
- Not providing a service to a person because of their disability.

## How do the ADA and Section 504 of the Rehabilitation Act help people with disabilities who want to adopt internationally?

The ADA and Section 504 of the Rehabilitation Act do not apply to other countries, but private agencies in the United States that help with international adoptions must comply with Title III of the ADA. For example, parenting evaluations or home visits must be accessible.

## What should I do if I believe my rights were violated?

Contact an attorney. Each state has a Protection and Advocacy organization that provides free legal assistance to people with disabilities.

File complaints to the U.S. Department of Justice and the U.S. Department of Health and Human Services. Some states also have agencies that can investigate discrimination complaints.

There are strict deadlines for filing complaints. **It's important to act quickly to protect your rights!**

### Getting Help When You Are Being Discriminated Against



Contact a Lawyer



Contact Your State's  
Protection and Advocacy  
Organization



Contact the U.S. Department of  
Justice or the U.S. Department  
of Health and Human Services