

Promoting the Rights of Parents with Disabilities

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The Arc of the United States
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Good Morning

Introductions and how this session will run.



Historical Overview

 Eugenics/Sterilization as official policy

Buck v. Bell



Disability Rights Movement

Demanding our rights

You Make a Difference!

- Sec. 504 of the Rehabilitation
 Act
- The Americans with Disabilities Act (ADA)



Rights of Parents with Disabilities

National Council on Disability

Rocking the Cradle Report

DOJ & HHS

Technical assistance



Federal Government

Nondiscrimination Protections (of the ADA and Section 504) apply to State and Local Child Welfare Agencies and Courts



State Laws

- Having a disability as a basis for terminating parental rights
 - Some laws with disability as the sole grounds for termination without evidence of abuse or neglect



State Laws (cont.)

 Laws that prohibit discrimination against parents with disabilities

For example:

- custody or visitation decisions based on evidence
- assessments
 - necessary accommodations



State Laws (cont.)

Map of Current State Legislation Supporting Parents with Disabilities at:

https://heller.brandeis.edu/parentswith-disabilities/map/index.html



Questions?

Contact:

Burgdorf@thearc.org

How Do Section 504 and the ADA Apply to Child Welfare Practices

Carla Carter, J.D.

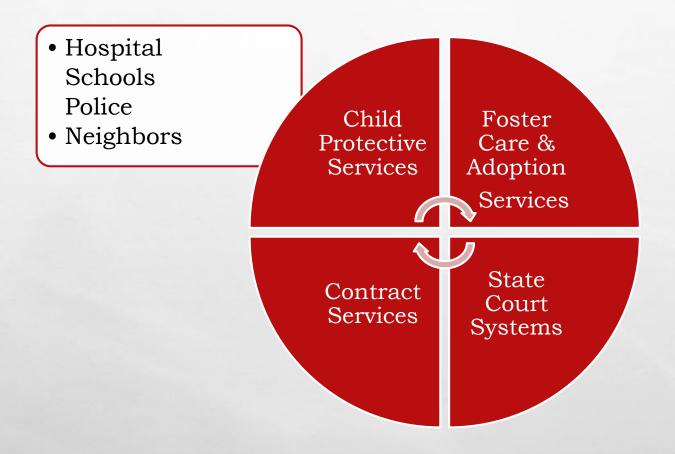
Office for Civil Rights

Investigations
Technical Assistance
Outreach
Training





The Child Welfare System





What are Reasonable Efforts?

- ☐ Actions federally funded agencies must make to prevent the necessity of removal of a child from the child's home
- Actions federally funded child welfare agencies must make to reunify children with their families

Federal Disability Rights Laws

Section 504 of the Rehabilitation Act of 1973 Title II of the Americans with Disabilities Act of 1990



Protected Individuals

Children and Parents, Relatives/Kin, Companions, Legal Guardians, Foster Parents, Adoptive Parents and Prospective Foster/Adoptive Parents

Covered Programs and Activities

State and local child welfare agencies

State Court Systems

Private and Non- Profit Agencies

Child Placing Agencies

Mental Health Providers

Substance Abuse Programs

CPS Investigations
Safety and Risk Assessments
Removal of Children from their
Homes
Provision of in-home services
Case plans and Svc. Agreements



What Must Child Welfare Entities Do

☐ Individualized Treatment

Full and Equal Opportunities

Case Examples







HHS/DOJ Technical Assistance



U. S. Department of Health And Human Services Office for Civil Rights ministration for Children And Families

U.S. Department of Justice

Civil Rights Division Disability Rights Section



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 584 of the Rehabilitation Act

The United States Department of Health and Human Services (HHS) and the United States Department of Justice (DOJ) are issuing this technical assistance to assist state and local child welfare agencies and courts to ensure that the welfare of children and families is protected in a manner that also protects the civil rights of parents and prospective parents with disabilities. This guidance provides an overview of the issues and application of civil rights laws, answers to specific questions and implementation examples for child welfare agencies and courts, and resources to commit for additional information.

Section 504 of the Rehabilitation Act of 1973 (Section 504) 2 and Title II of the Americans with Disabilities Act of 1990 (ADA)³ protect parents and prospective parents with disabilities from unlawful discrimination in the administration of child welfare programs. activities, and services.* At the same time, child welfare agencies and courts have the responsibility to protect children from abuse and neglect. The goals of child welfare and disability non-discrimination are mutually attainable and complementary. For example, ensuring that parents and prospective parents with disabilities have equal access to parenting opportunities increases the opportunities for children to be placed in safe and caring homes.

Need for This Technical Assistance

Both the HHS Office for Civil Rights (OCR) and DOJ Civil Rights Division have received numerous complaints of discrimination from individuals with disabilities involved with the child welfare system, and the frequency of such complaints as ming. In the course of their civil nghts enforcement exterise, OCR and DOD have found that child welfare agencies and courts vary in the extent to which they have implemented policies, practices, and procedures to prevent discrimination against parents and prospective parents with disabilities in the child

Califren with disabilities also have nondiscrimination protections under Section 504 and Title II of the ADA, but the focus of this technical assistance is on papeurs and prospective parents with disabilities





U.S. Department of Health And Human Services Office for Civil Rights Administration for Children U.S. Department of Justice

Civil Rights Division Federal Coordination and Compliance Section



Dear Colleagues:

The purpose of this letter is to continue the national conversation to ensure that child welfare agencies and state court systems are aware of their responsibilities to protect the civil rights of children and families in the child welfare system. Last year, we wrote to you and offered guidance on the intersection of child welfare requirements and the Americans with Disabilities Act, as well as Section 504 of the Rehabilitation Act. In this letter, we provide an overview of how Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations,2 which prohibit discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance, apply to child welfare policy and practice.3

Role of the Department of Justice and the Department of Health and Human Services

The U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) and Office for Civil Rights (OCR), are committed to working with states and other stakeholders to ensure that all children and families receive equal access to the programs and services of the child welfare system. The Children's Bureau, an office of ACF, administers funding for child welfare agencies and state court systems and provides guidance and technical assistance to child welfare agencies regarding child welfare law and policy; in addition, both HHS and DOJ provide federal funds to state court systems. HHS promulgates federal regulations and policy that govern Title IV-B and IV-E agencies' and provides guidance and technical assistance to HHS-funded state court systems and child welfare agencies regarding how federal laws, regulations and policies affect a state's implementation of its child welfare laws. HHS and DOJ ensure that their respectively-funded state court systems and child welfare agencies comply with Title VI and its implementing regulations. DOJ is also responsible for ensuring consistent and effective enforcement of Title VI across federal funding agencies.

¹ The term "porems" includes biological, finiter, and adoptive porems. It also includes caretaken such as legal guardians or relatives. Prospective pareum include individuals who are seeking to become foreir or adoptive

^{*}See U.S. Day't of Health and Human Servs. Office for Civil Rights and Admin. for Children and Families, and U.S. Day't of Juntoc, Civil Rights Dev. Dotability Rights Section, Protecting the Rights of Farence and Prospective Parence with Distabilities: Te. Activities of Protecting the Rights of Farence and Prospective Parence with Distabilities: Act and Section 50% of the Renderlands on AC (2015), pages 2000-012-025.

² 42 U.S.C. §§ 2000d – 2000d-7. The DOJ Title VI implementing regulation may be found at 28 C.F.R. pt. 42, Subpt. C; and the HHS

³ We also answer Frequently Asked Questions at Appendix A; and provide Additional Resources at Appendix B.

^{*} See Title IV-B of the Social Security Act, 42 U.S.C. §§ 601 – 639m (Child and Family Services); Title IV-E of the Social Security Act, 42 U.S.C. §§ 670 – 679c (Federal Psymmens for Foster Care and Adoption Assistance).

Contact OCR



Email OCR: ocrmail@hhs.gov

Mailing Address:

Centralized Case Management Operations U.S. Department of Health and Human Services 200 Independence Avenue, S.W. Room 509F HHH Bldg. Washington, D.C. 20201



Call OCR:

Toll Free: (800) 368-1019

TDD Toll-Free: (800) 537-7697

File a Complaint:

https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf

