



CHILD CARE LAW CENTER

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UNITED STATES DEPARTMENT OF JUSTICE ADA SETTLEMENT SUMMARIES

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Title III of the Americans with Disabilities Act of 1990 (“ADA”) prohibits child care providers from discriminating against a child because of a disability. Complaints about violations of the ADA are filed with the United States Department of Justice. The United States is authorized to investigate alleged violations and bring a civil action in federal court. The Department of Justice issues quarterly status reports describing its ADA activities. Activities include lawsuits, formal settlement agreements, informal settlement agreements, and mediations.

FORMAL SETTLEMENT AGREEMENTS

In formal settlement agreements between child care providers and the Department of Justice, the child care provider agrees to terms without having a judge decide the case or in order to avoid a lawsuit. In the formal settlement agreements below, the Department of Justice alleged that the child care providers were violating the ADA. To settle the cases against them, the child care providers agreed not to discriminate against children on the basis of disability and agreed to provide all children with disabilities reasonable accommodations and an equal opportunity to participate.

Beach Babies Learning Center, L.L.C	State: Connecticut	Year: 2011
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D.J. No. 202-14-98

www.ada.gov/beach_babies.htm

Parents filed a complaint against the Beach Babies Learning Center (Beach Babies). Beach Babies cares for infants, toddlers, and preschoolers. Beach Babies also offers a before and after-school program for school age children.

Facts:

Parents of a child with autism claimed that Beach Babies discriminated against their son, who has autism, by excluding him from participation because of his disability. The parents also complained that they were discriminated against and denied equal services that were offered to parents of children without disabilities.

Settlement Agreement:

Beach Babies agreed to adopt and enforce a policy on prohibition of discrimination on the basis of disability. Beach Babies must post a copy of the policy in a noticeable area of the center. Beach Babies must also include it on its website.

Beach Babies agreed to pay the parents \$7,341.00 as part of the settlement.

Nobel Learning Communities

State: Pennsylvania

Year: 2011

D.J. No. 09-1818-MAM

www.ada.gov/nobel_learning.htm

Nobel Learning Communities (NLC) is a private, for-profit corporation with over 180 private schools in fifteen states and the District of Columbia. NLC also offers before and after-school programs and summer programs. The United States filed a complaint against NLC because of discriminatory practices.

Facts:

NLC's policy and practices excluded, disenrolled, and discriminated against children with disabilities, including children with autism spectrum disorders and Down syndrome. The United States alleged that at least thirteen students were harmed by NLC's practices.

Settlement Agreement:

In the settlement agreement, NLC agreed to implement the "Nobel Learning Communities Disability Non-Discrimination Policy," showing commitment to making its programs available on a non-discriminatory basis. NLC agreed to publicize the Policy to all NLC principals, teachers, and staff at all NLC's facilities. The policy must also be posted on NLC's website and all member schools' websites, and made available in paper copy as well. NLC must inform families of children who apply or are enrolled about how to access the policy. NLC agreed to provide training on the policy to its regional executives, principals, and assistant principals. Any NLC staff that are required to receive training but are on leave of absence must be trained within 90 days of their return. Teachers must report any requests for accommodations related to a disability to a regional executive, assistant principal, principal, or NLC's ADA Compliance Officer.

NLC agreed to designate a staff member as its ADA Compliance Officer, who reports to corporate senior management at NLC headquarters. This Officer must know the terms of the Settlement Agreement and the Policy, as well as Title III of the ADA.

Beginning Montessori Academy

State: California

Year: 2011

D.J. No. 202-12C-367

www.ada.gov/montessori_academy_settle.htm

Montessori Academy (Academy) is a fully state-funded private preschool program. A mother of a five year-old child with autism filed a complaint against the Academy.

Facts:

The mother complained that the Academy did not accept her child for the following school year because the child has autism, and that as of July 1, 2008, the Academy would not accept any child with autism or any specialized condition or need.

Settlement Agreement:

The Academy agreed to designate a staff member as an ADA Compliance Officer, who is responsible for making sure the policies and procedures below are followed.

The Academy agreed to submit its policies and procedures to the Department of Justice for approval. The policies must adopt a nondiscriminatory policy under the ADA stating that the Academy will not discriminate on the basis of disability and will make reasonable accommodations when necessary. The policies must be included in the Academy's employee and parent handbooks. When the Academy receives a request in writing from the parent of a child for a reasonable accommodation to its policies,

practices, or procedures, the Academy must initiate a discussion with the parent about reasonable accommodations. If a request is denied, the Academy must document each reason for denial and submit that documentation to the ADA Compliance Officer for review. The Academy must respond to a written request for a reasonable accommodation within 20 days from the date the request is received. If denied, the Academy must notify the child's parent/guardian in writing of the reasons.

The Academy was also required to train any staff responsible for interviewing or reviewing applicants, and/or considering requests for reasonable accommodations.

The Academy must also provide training to the teacher(s) directly responsible for any child at the Academy who has been identified by his or her parent as being diagnosed with autism. The training can be given by the parent or a qualified person agreed upon by the parent.

Rainbow River Child Development Center	State: California	Year: 2010
D.J. No. 202-12C-339	www.ada.gov/rainbow_river/rainbow_river_sa.htm	

Rainbow River Child Development Center (Rainbow River) provides preschool and school-age programs, and before and after-school, summer, and holiday child care. Parents of a five year-old boy with type I diabetes filed a complaint against Rainbow River, claiming that Rainbow River refused to provide proper diabetes care management.

Facts:

The child with Type I diabetes was starting Kindergarten the following fall and his parents wanted to continue him at Rainbow River's after school care program following the summer program. Under Rainbow River's policies and practices at the time of the complaint, the child's parent was required to come at lunch and snack times to give the child insulin or supervise the child's use of an insulin pump. Also, Rainbow River did not allow the child to attend any field trips.

Settlement Agreement:

Rainbow River agreed to adopt a diabetes management policy and post copies of the Policy in a central location. When informed that a child who has applied to its programs has diabetes, Rainbow River must let the child's parents, guardians, or caretakers know about the Policy.

If parents/guardians of a child with diabetes want Rainbow River to administer insulin, glucagon for severe hypoglycemia, or other diabetes care to their child, Rainbow River shall do so as long as the parents/guardians provide Rainbow River with a medical management plan and other medical and family forms and information.

Rainbow River must also communicate with parents/guardians about the child's diabetes management, diabetes care, or diabetes health-related concerns. Rainbow River must guarantee that the Medical Management Plan and Policy will be followed, and permit the child to self-manage his or her diabetes consistent with the child's ability, skill, maturity, and development level.

In addition to adopting the Policy, Rainbow River agreed to arrange basic training for any staff responsible for children with diabetes at Rainbow River. The training is a general overview of diabetes and typical health care needs, recognition of common symptoms of hypoglycemia and hyperglycemia, and ways to get help quickly. At the request and input of the parent, Rainbow River must also arrange

child-specific training to meet the needs of a particular child with diabetes. Child-specific training may be given by a parent or by a qualified person agreed upon by the parents.

Rainbow River is required to keep a record of all admission inquiries on behalf of children with diabetes for three years from the date of inquiry.

The Children’s House, Inc.

State: Ohio

Year: 2010

D.J. No. 202-57-130

www.ada.gov/childrenshouse.htm

A parent of a child with asthma filed a complaint against The Children’s House.

Facts:

The parent complained that the child was discriminated against on the basis of his asthma. The Children’s House refused to reasonably modify its medication administration policy to meet the needs of the child.

Settlement Agreement:

In the settlement agreement, The Children’s House adopted “The Children’s House, Inc., Policy on Asthma Medication.” The Children’s House must put copies of the Policy in a central location, provide it to any interested party who requests it, and incorporate it into its standard operating policies. The Children’s House agrees to evaluate the individual needs of children with disabilities to make reasonable accommodations.

When The Children’s House is informed that a child with asthma applied to its center, it must advise the child’s parents, guardians, or caretakers of the Policy on Asthma Medication Administration. No less than two weeks before the first day of enrollment, parents must provide The Children’s House with an asthma management plan and information about medication and supplies. The Children’s House also agreed to provide ADA training to its staff.

Pine Hills Kiddie Garden

State: Indiana

Year: 2009

D.J. No. 202-26-62

www.ada.gov/pinehillscare.htm

A parent of a six year-old daughter with Type I diabetes filed a complaint against Pine Hills Kiddie Garden (Pine Hills).

Facts:

The parent contended that Pine Hills refused to permit his daughter with Type I diabetes to participate in field trips as part of the summer program unless she was accompanied by a parent or a medically trained person hired by the parent.

Settlement Agreement:

Pine Hills agreed to evaluate on a case by case basis and make reasonable accommodations for children with diabetes, including, but not limited to, supervising and monitoring children with disabilities while using blood glucose monitoring tests, insulin pumps, syringes, and other diabetes-related medical equipment, or consumption of food while participating in any program or activity. Pine Hills adopted the “Pine Hills Kiddie Garden Policy on Diabetes Management.” Pine Hills must print and maintain copies of the Policy in a central location, provide it to anyone who requests, and incorporate it into its standard operating policies.

Pine Hills' Policy on Diabetes Management requires parents who wish to enroll their child with diabetes to submit an application one month ahead of the start date for child care or camp, or two weeks ahead for daily events such as field trips. This provides adequate time for Pine Hills staff to meet with the parents to find reasonable accommodations.

When informed that a child who has applied has diabetes, Pine Hills must advise the child's parents, guardians, or caretakers of their Policy on Diabetes Management. Two weeks prior to the first day of any session or program (or less if the program starts in less than two weeks), the child's parents must provide Pine Hills with the medical management plan and other medical forms, waivers, and information. Pine Hills must keep a record of all admission inquiries of children with disabilities for three years from the date of inquiry.

Pine Hills also agreed to train its staff. Pine Hills must arrange for a certified diabetes educator to provide basic training to the appropriate Pine Hills staff. The training includes a general overview of diabetes and typical health needs, recognition of common symptoms of hypoglycemia and hyperglycemia, and ways to get help quickly.

Push My Swing

D.J. No. 202-67-109

State: South Carolina Year: 2008

www.ada.gov/pushmyswing.htm

Push My Swing is a child care center in South Carolina. A parent filed a complaint against Push My Swing for discriminating against her child due to a physical disability.

Facts:

A parent sought to enroll her child in Push My Swing. The child has a mobility disability and wears leg braces. Push My Swing initially accepted the child's application and a deposit check. Push My Swing later denied the child admission to the center and returned the deposit, stating that its insurance company would not cover the child if she fell down.

Settlement Agreement:

Push My Swing adopted a "Push My Swing Nondiscrimination Policy," stating that it will not deny admission, terminate enrollment, or discriminate against any child because of the child's disability. Push My Swing agreed not to modify the Policy without the prior written consent of the Department of Justice. Push My Swing also agreed to print and post copies of the Policy in a central location, provide the Policy to anyone who requests it, and incorporate the Policy into its standard operating policies. When a child with a disability applies to the center, Push My Swing must advise the child's parents, guardians, or caretakers of its Nondiscrimination Policy and let them know the Policy will be followed.

Push My Swing must not use insurance coverage or lack of insurance to justify exclusion of children with disabilities. Any exclusion must be based on legitimate safety concerns rather than the terms of the insurance contract.

Push My Swing is required to keep records of all admission inquiries for children with disabilities for three years from the date of inquiry. If any individual brings a lawsuit or complaint that Push My Swing discriminated against them because of disability, Push My Swing must notify the United States in writing within 15 days of when Push My Swing received notice of the allegation.

Parents of children with diabetes alleged that Raynor Country Day School (Raynor) denied two children with diabetes admission to the summer camp.

Facts:

Raynor denied parents' repeated request to permit their children to attend the camp and for Raynor staff to supervise their children in testing their blood glucose level and for staff to administer insulin to the children using the children's insulin pump, as well as other daily diabetes care.

Settlement Agreement:

Raynor adopted the "Raynor Country Day School Policy on Diabetes Management," which requires Raynor to make individual assessments of the needs of each child with diabetes and work with families to provide reasonable accommodations. Raynor agreed to designate a staff member as an ADA Compliance Officer who is responsible for making sure the policies and procedures are followed. Raynor agreed to post the Policy in a central location, provide it to any interested party who requests it, and incorporate it into standard operating policies.

When informed that a child who has applied to Raynor has diabetes, Raynor must advise the child's parents of the Policy on Diabetes Management and let the parents know the Policy will be followed. At least 2 weeks before the first day of any session or program the child's parents must provide Raynor with the medical management plan and other medical forms, waivers, and information.

After the above materials and forms are provided, Raynor must also communicate with parents about the child's diabetes management, care, or diabetic health-related concerns, as well as encourage compliance with the Medical Management Plan and Policy, independence, and self-care consistent with the child's ability, skill, maturity, and development level.

Raynor also agreed to arrange for either the Health Supervisor or a certified diabetic educator to provide basic training to its appropriate staff. The training includes a general overview of diabetes, typical health care needs, recognition of common symptoms of hypoglycemia and hyperglycemia, and ways to get help quickly. The person assigned to do the training must also provide assistance and respond to questions from parents about any concerns related to the care or treatment for a child with diabetes.

Raynor agreed to keep records of all admission inquiries of children with diabetes. These records must be kept for a period of three years from the date of the inquiry.

West End YMCA (YMCA) provides child care services to youth up to twelve years old, including before and after-school child care and summer day camp. A parent filed a complaint on behalf of her son who has autism.

Facts:

The parent of a child with autism alleged that YMCA failed to make reasonable modifications to give her son an equal opportunity to participate in and benefit from YMCA's after-school child care program.

Settlement Agreement:

YMCA agrees to designate a person as its "ADA Compliance Officer," whose responsibility is to make sure that the policies and procedures of the settlement agreement are fully implemented and complied with. After review and approval of its written policies by the United States Department of Justice, YMCA agreed to adopt the nondiscriminatory policy under the ADA, stating that YMCA will not discriminate against any individual based on disability, will make reasonable accommodations when necessary, and will not exclude any individual with a disability unless he or she poses a direct threat. The nondiscriminatory policy must be included in the employee and parent handbooks.

YMCA must designate one individual per branch who is authorized to receive and review requests for modifications to policies and procedures regarding child care services. This individual's contact information must be publicized in the parent handbook or another place easily accessible for parents of children with disabilities, and also included with application materials. Also, information for parents of children with disabilities must be provided, explaining how to request modifications to policies, practices, and procedures for child care services. This must also be in the parent handbook or another place easily accessible for parents of children with disabilities, and included with application materials.

YMCA agreed to make sure that its child care application materials do not screen out or tend to screen out applicants with disabilities and to promptly consider all requests for reasonable modifications to child care services.

When a request for modification is received, YMCA must initiate a discussion with the parent to figure out whether the child's disability needs modification(s) and what modification(s) may be available. After the discussion, YMCA may: 1) Grant the request; 2) Request medical documentation relating to the child's disability and any necessary modification(s); or 3) Deny the request. If denied, YMCA must document each and every reason for the denial and submit that documentation to the ADA Compliance Officer to review. YMCA also must respond to a request for modification in writing no later than 10 days from the date the request is received. If denied, the parent/guardian must be notified, in writing, of the reasons.

YMCA was also required to provide appropriate training to all individuals responsible for granting or denying enrollment and/or considering requests for reasonable modifications.

Busy Bumble Bee Palace Infant & Toddler Care Center

State: Illinois

Year: 2006

www.ada.gov/bumblebee.htm

The Busy Bumble Bee Palace Infant & Toddler Care Center (the Center) is a full service child care facility offering a program for children from the age of six weeks to twenty-four months. A parent filed a complaint on behalf of her son, against the Center.

Facts:

At the time of the complaint, the child was two years-old and had serious developmental and speech delays. The child's parent complained that the Center failed to modify its policies or practices to permit a child with a disability to participate. Also, the Center notified the parent that they would no longer provide services to her son.

Settlement Agreement:

The Center agreed to adopt a nondiscrimination policy and include that policy in its employee and parent handbooks. The Center agreed to provide appropriate training to its management and staff on the rights and obligations of child care providers regarding individuals with disabilities.

Rieck Avenue Country Day School, Inc.

State: New Jersey

Year: 2004

D.J. No. 202-48-133

www.ada.gov/riekave.htm

Rieck Avenue Country Day School (Rieck Avenue) is a full service child care facility offering a summer program for children from ages two to ten years-old. A parent filed a complaint against Rieck Avenue on behalf of her daughter.

Facts:

A parent claimed that Rieck Avenue refused to enroll her daughter in its summer program on the basis of her disability. The daughter was seven years-old at the time and has epilepsy and cerebral palsy.

Settlement Agreement:

Rieck Avenue agreed to adopt a nondiscrimination policy stating that Rieck Avenue will not discriminate on the basis of disability and will not exclude any individual with a disability unless he or she poses as a direct threat. The policy also states that Rieck Avenue will make reasonable accommodations when necessary. The nondiscrimination policy must be included in employee and parent handbooks. Rieck Avenue agreed to provide training to its management and staff on the rights and obligations of child care providers regarding individuals with disabilities.

Extended Love Child Development

State: Wisconsin

Year: 2004

The Department of Justice entered into an agreement with Extended Love Child Development Center (Extended Love) to resolve a complaint by the mother of a child who is deaf.

Facts:

The mother of a child who is deaf alleged that Extended Love refused to provide sign language interpreters for communication-intensive activities, such as field trips, and, as a result, her child was denied an equal opportunity to participate in center activities.

Settlement Agreement:

Extended Love agreed to provide qualified sign language interpreters or other auxiliary aids and services when needed to ensure effective communication with deaf or hard of hearing children or parents. It also agreed to train its staff on providing auxiliary aids and to do an age-appropriate presentation on communicating with people with hearing disabilities for the classmates of any child who is deaf or hard-of-hearing.

Peggy's Child Care, Inc.

State: Texas

Year: 2003

The Department of Justice entered into an agreement resolving allegations that Peggy's Child Care refused to enroll a four year-old child with Down Syndrome who needed diapering.

Facts:

Peggy's Child Care had a policy of requiring children over three years-old to be toilet trained and refused to admit the four year-old child with Down Syndrome because the child was not toilet trained. The child's parent filed a complaint against Peggy's Child Care.

Settlement Agreement:

Peggy's Child care agreed to pay \$4,000 in damages to the child's parent, modify its policy to admit children over three years-old who are not toilet-trained if their need for diapering is due to a disability, and provide ADA training to its employees.

Wee-Kare Nursery

State: Virginia

Year: 2003

Wee-Kare Nursery is a home-based child care program. A parent filed a complaint against Wee-Kare Nursery, claiming that the nursery terminated her son from its program because she (the parent) had Hepatitis C.

Facts:

The mother of a child enrolled in Wee-Kare Nursery told the child care provider (the owner) in confidence that the reason she had been going to so many doctor's appointments was because of her Hepatitis C. The provider said the nursery would no longer take care of her son, even though the child had tested negative for Hepatitis C.

Settlement Agreement:

The provider agreed to attend a training program on ADA obligations of child care providers, adopt a written nondiscrimination policy, and pay \$1,000 in compensatory damages to the complainant.

INFORMAL SETTLEMENT AGREEMENTS

The Department of Justice resolves some cases without going to trial or using a formal settlement agreement. In some instances, the child care provider promptly agrees to take the necessary actions to achieve compliance. Details of the Department's ADA informal settlement agreements are limited and just briefly mention the matter of the complaint and the accommodation without naming the child care provider.

State: Nebraska

Year: 2008

Facts:

Parents complained that a private health care facility refused to enroll their daughter in its child care center because she has diabetes.

Settlement Agreement:

The facility agreed to develop policies and procedures to address requests for reasonable modifications for children with disabilities including diabetes, to include the policies and procedures in all brochures and application materials, and to train staff on the child care center's ADA obligations.

State: New York

Year: 2008

Facts:

The parents of a child with a chronic medical condition alleged that a private preschool refused to admit their child because it did not want to administer medication during the day.

Settlement Agreement:

The preschool modified its "no medication" policy and obtained medication administration certification for two staff members, updated the parent handbook indicating that individual students' medical needs will be evaluated on a case-by-case basis, sent a letter to parents of current students notifying them of the new policy, and agreed to distribute a notice to parents of prospective students notifying them of the new policy.

MEDIATION

Mediation is an informal process where a neutral third party helps the disputing parties find and agree on a solution. Mediation can resolve disputes quickly and satisfactorily, without the cost and time of formal investigation and litigation. Details of the Department's ADA mediation cases are limited and just briefly mention the matter of the complaint and the accommodation without naming the child care provider.

State: Alabama

Year: 2009

Facts:

The parents of a child with cerebral palsy complained that a recreation center unnecessarily excluded their child and others from some of their programs because of their disabilities.

Mediation:

The recreation center reaffirmed its policy not to discriminate against children with disabilities. The center also formed a committee comprised of parents and staff to review existing programs and, where appropriate, add specialized programs for children with disabilities who are unable to participate in the regular programs. The child joined one of those specialized programs, the adaptive swimming class, which now has a waiting list because of its popularity.

Mid-Atlantic Area

Year: 2008

Facts:

Parents of a child with severe food allergies complained that an organization in the Mid-Atlantic area offering activity programs for children did not permit employees to administer Epi-Pens.

Mediation:

The organization changed its policies and adopted written guidelines to recognize signs of severe allergic reactions, conducted an Epi-Pen training program for staff which was advertised in local newspapers, sent written announcements to parents, and posted information on the organization's website. In addition, the organization participated in fund-raising activities for the group that provided the training program and wrote an apology letter to the parents.

State: Pennsylvania

Year: 2005

Facts:

A parent complained that a social service organization discontinued its child care services to her young daughter because staff members refused to conduct blood sugar level tests.

Mediation:

The organization agreed to train its child care staff members to check blood sugar levels of children with diabetes and to pay \$2,000 in compensation to the complainant.

State: South Carolina Year: 2003

Facts:

A parent claimed that a summer camp refused to allow her son, who has multiple disabilities, to attend a camp program that included overnights unless she provided a full-time attendant for him.

Mediation:

In the course of mediation, the parties agreed to a process to explore whether or not the child needed continual supervision and if so, who would provide it. After several months of good faith exploration, including observation of the child to better understand his needs, the camp agreed to let the child attend its camp without requiring the mother to provide an attendant.

State: Texas Year: 2002

Facts:

A parent of a child with a severe peanut allergy complained that a nationwide summer day camp program for elementary school-aged children refused to administer epinephrine via an Epi-Pen in the event of an allergic reaction, instead requiring the parent to come to the site to administer the medication.

Mediation:

The corporate office agreed to adopt a policy requiring site coordinators to administer basic first aid, including the Epi-Pen, to all children. The office also purchased a supply of Epi-Pens for use in its programs throughout the country and sent a written apology to the complainant.

State: Tennessee Year: 2000

Facts:

A parent complained that her child with autism had been denied enrollment in a child care program.

Mediation:

The program agreed to comply with the ADA and to admit the child immediately, to establish a plan for ongoing communication with the parent about any needs the child may have, and to provide individualized assistance when deemed necessary by all parties.