

Preventing Legal issues from flaring up

In early childhood programs

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Issues we'll cover:

- ◆ ADA as amended, January 1, 2009
- ◆ Staff babysitting for program families
- ◆ Substantive references for job applicants
- ◆ Preventing custody issues at pick up time
- ◆ Confidentiality
- ◆ Privacy
- ◆ Preventing online difficulties
- ◆ Your questions_____

Gertrude, preschool teacher

Gertrude's body odor is interfering with her work. Parents take all their questions to Gertrude's team teacher. Children don't want to get near her and other staff gossip about her. Her lesson plans are creative and she works harder than most staff.


As Gertrude's boss, how would you approach this challenge? Would the ADA apply?

ADAAA

- **Persons with disability**
 - **Who otherwise qualify for job**
 - **Be given reasonable accommodations to apply for, perform, enjoy benefits of job**
- ◆ **Disability- restricts major life activity- breathing, sleeping, standing*****
 - ◆ **Unless Undue hardship results- endangers business**
 - ◆ **Unless a Direct threat of significant risk is likely to occur**

Expanded Major bodily functions list now includes
(Identify all the conditions covered in this list that may now
be protected under the ADA)

- Immune system
- Normal cell growth
- Digestive, bowel, bladder
- Neurological
- Brain
- Respiratory
- Circulatory
- Endocrine
- Reproductive functions



Employers cannot ask an applicant or employee if s/he has a disability.

Once employee says s/he has a disability, employer :

1. Requests doctors description and recommended accommodations
2. Works w/ employee to agree upon reasonable accommodations.

Vernon

- ◆ Is an Iraqi war veteran whose passion is educating young children. He completed his Associates Degree, and appears well qualified. When he arrives for his interview, he shrugs off his coat, revealing he has 1 arm. He wants to be an infant teacher. What do you do and say?

Tune in online

*Heart to Heart
Conversations on
Leadership:*

*Your Guide to Making
a Difference*

BAMradionetwork.com
Hollyelissabruno.com or

**Send me your
name & email
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announcements of
new programs**



Wanda the toddler teacher

Babysits for the Williams twins who are in her class. One evening, while the Williams are enjoying a date night, Wanda trips and injures both children.

What are the issues when staff babysit? For children? Teachers? The program?

Who is responsible?

Do you have a babysitting policy?

No Babysitting Policy

Teachers may not babysit
for children enrolled in
our program.

Consent to hold program harmless

We/I, _____(parents/legal guardians) of
_____(child/ren) agree to hold _____(program)
harmless for any injury that may befall our children when
we hire teacher _____ to babysit.

We understand this consent takes exception to the program's
No Babysitting Policy.

_____Parent//Guardian _____Date

_____Program Director _____Date

_____Teacher _____Date

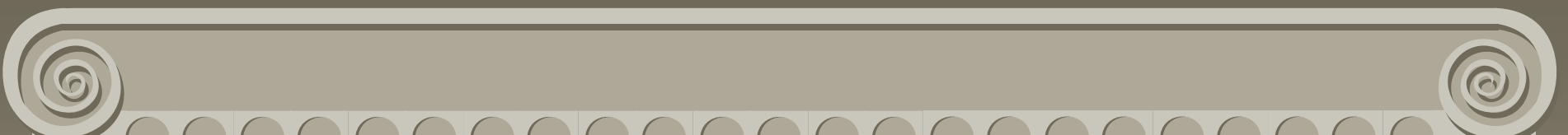
Due process

◆ **Notice:** tell
people
about
changes that
affect them

◆ **Right to a
hearing:**
provide
opportunity
for feedback

Case study on “due process”

- ◆ Teacher Trixie hears “through the grapevine” you may take away their right to babysit for program families. She starts a rumor mill riling up parents and teachers to fight you “tooth and nail” on this.
- ◆ Describe due process steps you could have taken to both prevent and now address this new challenge caused by Trixie?



What does your program's current Reference Policy allow you to say if you are called by another Director asking you to give a reference on a former employee?

Does your policy allow you to provide and receive the information you need?

Current practice

- ◆ When called for a reference on a former employee, you may only provide:
- ◆ "Yes" or "No" when asked if the employee worked for our organization
- ◆ The dates of her/his employment
- ◆ "Yes" or "No" when asked: "Would you rehire this person?"

Job reference for teacher Mona

Director Veronika would have fired infant teacher Mona if Mona had not resigned. Mona was late everyday and had a short fuse with crying babies. Mona gossiped viscously about her team teacher.

Mona gives Veronika's name as a reference when she applies to Busy Bee preschool. What can/should Veronica say when called?

Hold Harmless Reference Policy

- ◆ I, _____, employee of _____(program) agree to hold the program harmless for a reference they provide on me in the following areas (Initial each area selected):
- ◆ Classroom management
- ◆ Developmentally appropriate practices
- ◆ Inclusiveness
- ◆ Building partnerships with families
- ◆ Embracing diversity
- ◆ Timeliness
- ◆ Preparation

At the end of the day

A decorative frame with two columns on the left and right, each with a spiral capital. A horizontal bar with a row of small circles connects the tops of the columns. The text is centered within this frame.

Legal and ethical issues at
release time when families pick
up their children

Who is liable?

- ◆ You buckle toddler Tyrone into his car safety seat?
- ◆ You provide safety seats for families that can't afford them?
- ◆ You hear parents aren't using safety seats?
- ◆ A volunteer bus monitor buckles children into seats?

Case study: Babysitter Amanda

◆ Age 12

◆ Parents want to put her on
Authorized List

◆ Your state's regulation?

◆ Your program's policy?

Authorized List for pick up

◆ *Persons on the Authorized List for picking up a child, must be at least 18 years of age and able to supply documentation of their identity.*



Case study

Lupe & Buster's children Yvette & Milagros

Shared custody parental/family agreement

◆ We, _____ & _____, *parental custodians of _____, agree that _____ will pick up _____ on Mondays-Wednesdays; _____ will pick up _____ on Thursdays and Fridays. If a parent attempts pick up on the other parent's day, that parent must document the other parent's consent. If continuous changes occur, both parents will file a revised agreement with the program.*