



Arkansas Better Chance (ABC) Preschool Program – Rules and Regulations Relating to Children with Special Needs

Do ABC Preschool Programs have to comply with the Americans with Disabilities Act?

Yes. ABC Preschool Programs have to comply with Americans with Disabilities Act (ADA), whether they fall under Title II (state and federal government) or Title III (public accommodations) of that law. Most likely, these programs will fall under Title II because the ABC program is supported through state and local government funds. See “Questions and Answers on the Americans with Disabilities Act in Arkansas” for more discussion on the difference between Title II and Title III.¹

ABC Preschool services are administered in center-based classrooms, family-based programs, or through specialists working with families in homes through HIPPY (Home Instruction Program for Parents of Preschool Youngsters) or PAT (Parents as Teachers program). Center-based classrooms and family-based programs may not discriminate against children and families with disabilities under the ADA. Similarly, the ABC program may not discriminate, on the basis of disability, against children and families it serves through its HIPPY, PAT, or other similar programs.

Do ABC Preschool Programs have to comply with the Arkansas Civil Rights Act?

An ABC Preschool facility will most likely have to comply with this law. All public accommodations must comply with the requirements of the Arkansas Civil Rights Act. Since the ABC pre-school program holds itself out to the public for educational services, it is likely that ABC facilities are considered public accommodations just like any other child care facility.²

Center-based classrooms and family-based programs may not discriminate against children and families with disabilities under the Arkansas Civil Rights Act. Similarly, the ABC program may not discriminate, on the basis of disability, against children and families it serves through its HIPPY, PAT, or other similar programs.

See “Fact Sheet: Arkansas Civil Rights Act and How It Relates to Child Care” for more discussion on this law.³

The following is a list of ABC Preschool Program Rules relevant to the care of children with disabilities and special needs. Key terms are bolded.

Child Eligibility

4.3 Eligible students for the ABC for School Success program must meet the following qualifications.

- Must be three or four years of age by the cutoff date set by ADE
- Gross family income shall not exceed 200% of the FPL
- A program is available in the area where the child resides and there is available space for the child to attend the program. In order to receive **special education services** a child must reside within certain district/co-op boundary lines.⁴

Staff Qualifications and Training Requirements

11.1 The lead teacher shall hold a bachelor's degree or higher in early childhood education, elementary education, **special education** or Family and Consumer Science with an emphasis in child development AND shall hold a valid Arkansas P-4 teacher certification. Teachers who hold a valid K-6 license are exempt from the P-4 requirement. Lead Teachers must be able to demonstrate competency in the areas of **developmentally appropriate programming**, curriculum development and daily classroom management.

11.9 Teachers and paraprofessionals shall be required to receive training in the following areas:

Arkansas Early Childhood and Infant/Toddler Education Framework

Pre-K ELLA (Early Literacy Learning in Arkansas)

Math/Science for Young Children

Social/Emotional Benchmarks for Young Children

Preschool children with special needs

Work Sampling Online (or assessment instrument chosen by DCCECE)

Program Standards

13.10 If children demonstrate **inappropriate behavior which adversely affects developmental performance**, the ABC program shall consult with the Early Childhood Special Education program regarding classroom modifications and interventions.

Assessment and Screenings

14.6 Within forty-five (45) days of entering an ABC program, each child shall receive a comprehensive health screening and a developmental screening to determine individual needs. It is the responsibility of the parent or guardian to complete the health screening in a timely manner. The program agency shall be responsible for completing the developmental screening and shall contact the Preschool Education Program in the appropriate Education Service Cooperative or local school district within seven (7) calendar days of a failed screening. **Programs shall comply with state and federal laws for Special**

Needs students. A developmental screening must be performed annually, while a health screening is valid for two (2) years.

14.7 The **developmental screening** must include, at a minimum, the following areas:

- vocabulary
- visual-motor integration
- language and speech development
- fine and gross motor skills
- social skills
- developmental milestones

The purpose of screening is to **identify developmental delays and/or educational deficiencies. Appropriate referrals shall be made if children require additional assessment.**

14.8 DCCECE will provide a list to programs of all acceptable developmental screening instruments on an annual basis.

14.9 A **comprehensive health screening** for ABC children shall include the following components:

1. Growth and nutrition
2. Development assessment
3. Unclothed physical
4. Neurological exam
5. Cardiac status
6. Vision
7. Hearing
8. Teeth
9. Lab tests (Appropriate for age & population group)
 - a. Hematological
 - b. Urinalysis
10. Immunization status

DCCECE shall provide programs with a standardized form to be distributed to parents. This form should be signed by the physician or nurse practitioner administering the health screening. Parents or guardians shall return the signed form to the program. A waiver from this requirement may be granted under Ark. Code Ann. 6-18-701.

14.10 Children shall be age appropriately immunized to attend an ABC program. Proof of current immunizations or an acceptable “catch up” schedule will be required before a child attends an ABC program. A waiver from this requirement may be granted under ACA 6-18-702. Note, 6-18-702 states: (3) If in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board any person to whom this section applies shall be deemed to have a **physical disability** that may contraindicate vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

Endnotes

These endnotes are legal citations for the information above. If you are having trouble understanding these citations, please speak with a reference librarian in your local law library. To look up the laws that apply to you, visit your local law library. Do not hesitate to look up the law and know your rights.

The **Arkansas Better Chance (ABC) Preschool Program** can be contacted by calling 501-682-9699 or by visiting <http://www.state.ar.us/childcare/abcprogramstaff.htm>.

¹ This publication was also created by the Child Care Law Center in October, 2006. If you cannot access the material in Arkansas, please call the Child Care Law Center at (415) 394-7144 or visit www.childcarelaw.org to request a copy of this publication.

² Arkansas Civil Rights Act of 1993, AR ST § 16-123-102(7). Note the definition of “public accommodations” under the Arkansas Civil Rights Act includes those accommodations that are “supported directly or indirectly by government funds.” Because ABC is funded by state and local government funds, it is likely subject to this Act.

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⁴ Note, this regulation does not undercut the Americans with Disabilities Act and its requirements to provide reasonable accommodations to all children with disabilities in child care. Similarly, this provision doesn’t weaken the requirements of the IDEA to provide early intervention and special education services to those children who are eligible for them.