

§ 84.60 Children, parents, caregivers, foster parents, and prospective parents in the child welfare system.

(a) *Discriminatory actions prohibited.* (1) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any child welfare program or activity that receives Federal financial assistance.

(2) Under the prohibition set forth in paragraph (a)(1) of this section, discrimination includes:

(i) Decisions based on speculation, stereotypes, or generalizations that a parent, caregiver, foster parent, or prospective parent, because of a disability, cannot safely care for a child; and

(ii) Decisions based on speculation, stereotypes, or generalizations about a child with a disability.

(b) *Additional prohibitions.* The prohibitions in paragraph (a) of this section apply to actions by a recipient of Federal financial assistance made directly or through contracts, agreements, or other arrangements, including any action to:

(1) Deny a qualified parent with a disability custody or control of, or visitation to, a child;

(2) Deny a qualified parent with a disability an opportunity to participate in or benefit from any and all services provided by a child welfare agency, including but not limited to, family preservation and reunification services equal to that afforded to persons without disabilities;

(3) Terminate the parental rights or legal guardianship of a qualified individual with a disability;

(4) Deny a qualified caregiver, foster parent, companion, or prospective parent with a disability the opportunity to participate in or benefit from child welfare programs and activities; or

(5) Require children, on the basis on the disability, to be placed outside the family home through custody relinquishment, voluntary placement, or other forfeiture of parental rights in order to receive necessary services.

(c) *Parenting evaluation procedures.* A recipient to which this subpart applies shall establish procedures for referring to qualified professionals for evaluation those individuals, who, because of disability, need or are believed to need adapted services or reasonable modifications. A recipient shall also ensure that tests, assessments, and other evaluation tools and materials used for the purpose of assessing or evaluating parenting ability are based in evidence or research, are conducted by a qualified professional and are tailored to assess actual parenting ability and specific areas of disability-related needs. Parenting evaluations must be fully accessible to people with disabilities and shall not be based on a single general intelligence quotient or measure of the person's disability, rather than their parenting ability. Assessments of parents or children must be individualized and based on the best available objective evidence.

[89 FR 40188, May 9, 2024]