

## Emotional Disturbance: Defining Criteria

In determining eligibility under the IDEA, the team must:

1. Decide if a student has an emotional condition that is manifested by one or more of the five characteristics listed in the definition of emotional disturbance, specifically:
  - an inability to learn that cannot be explained by intellectual, sensory or health factors;
  - an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - inappropriate types of behavior or feelings under normal circumstances;
  - a general pervasive mood of unhappiness or depression; or
  - a tendency to develop physical symptoms or fears associated with personal or school problems.
2. Determine that these characteristics meet the qualifying conditions or limiting criteria of:
  - having an adverse effect on educational performance;
  - occurring over a long period of time (chronicity); and
  - occurring to a marked degree (severity).

One requirement of establishing special education eligibility due to an emotional disturbance is that one or more of the five characteristics listed in the definition is present. The definition further requires that the characteristics must have an adverse effect on educational performance, be exhibited for a long period of time and to a marked degree (i.e., frequent and intense). Eligibility determination should be based on evidence drawn from different environments and should take into account the student's developmental stage as well as environmental, cultural and linguistic factors.

When considering the defining criteria of ED, the team must address the following questions:

**Question 1: Has the student been exhibiting, for a long period of time and to a marked degree, any of the five characteristics that define the condition?**

**Long period of time:** The standard for duration is not precisely specified. The literature frequently refers to several months as an appropriate standard. The intention is to avoid identifying a student as eligible for special education who is temporarily reacting to a situational trauma. The characteristics must be evident over time as well as across situations.

**Marked degree:** The qualifying condition of severity requires that the problems are significant and apparent to school staff members who observe the student in a variety of settings and situations. A comparison is made with the student's appropriate peer group. The behavior and emotions exhibited must be more severe or frequent than typically expected for individuals of the same age, gender and cultural group.

**Characteristics that define ED:** In determining that one or more of the characteristics is present, it is required that the characteristic is persistent, generalized and extended over time and situations. The defining characteristics of ED are reflected in the descriptions that follow.

- a. The student exhibits an inability to learn, which cannot be explained by intellectual, sensory or health factors.

This characteristic requires documentation that a student is not learning despite appropriate instructional strategies, tiered or targeted interventions and/or support services. There are problems inherent in the use of the phrase "inability to learn" as found in both the federal and state regulations. "Inability to learn" is inconsistent with a philosophy that all children can be characterized as learners. Therefore, the characteristic, "inability to learn" is appropriately interpreted as significant difficulty in learning despite targeted, intense intervention as outlined in the SRBI Framework and should be determined only after consideration of cultural, social and linguistic influences on student performance. A comprehensive and differential assessment is performed to establish an "inability to learn." The assessment should provide information that would allow the team to rule out any other primary

reasons for the suspected disability, such as intellectual disability, speech and language disorder, autism, a learning disability, hearing/vision impairment, multihandicapping conditions, traumatic brain injury, neurological impairment or other medical conditions. If any one of these other conditions is the primary cause, then the student may be deemed eligible for special education under that category of disability. Such a determination does not necessarily rule out emotional disturbance as a concomitant disability, since emotional and behavioral problems may also be associated with one of the above conditions.

- b. The student exhibits an inability to build or maintain satisfactory relationships with peers and teachers.

This characteristic requires documentation that the student is unable to initiate or to maintain satisfactory interpersonal relationships with peers and teachers. Satisfactory relationships include the ability to demonstrate sympathy, warmth and empathy toward others; establish and maintain friendships; be constructively assertive; and work and play independently at developmentally appropriate levels. These abilities should be considered when observing the student's interactions with both peers and teachers. This characteristic does not refer to the student who has conflict with only one teacher or with certain peers. Rather it is a pervasive inability to develop relationships with others across settings and situations. Examples of student characteristics include but are not limited to:

- physical or verbal aggression when others approach him or her;
- lack of affect or disorganized/distorted emotions toward others;
- demands for constant attention from others; and
- withdrawal from all social interactions.

- c. The student exhibits inappropriate types of behavior or feelings under normal circumstances.

This characteristic requires documentation that the student's inappropriate behavior or feelings differ significantly from expectations for the student's age, gender and culture across different environments. Examples of behavior or feelings that might be inappropriate under normal circumstances include but are not limited to:

- limited or excessive self-control;
- low frustration tolerance, emotional overreactions and impulsivity;
- limited premeditation or planning;
- limited ability to predict consequences of behavior;
- rapid changes in behavior or mood;
- antisocial behaviors;
- excessive dependence and over-closeness and/or inappropriate rebellion and defiance; and
- low self-esteem and or/distorted self-concept.

Once it is established that the inappropriate behaviors and emotions are significantly different, it must also be determined that they are due to an emotional condition. The condition is documented by a comprehensive assessment. The team must determine whether the student's inappropriate responses that are occurring "under normal circumstances." When considering "normal circumstances," the team should take into account whether a student's home or school situation is disrupted by stress, recent changes or unexpected events. Such evidence, however, does not preclude an eligibility determination.

- d. The student exhibits a general pervasive mood of unhappiness or depression.

This characteristic requires documentation that the student's unhappiness or depression is occurring across most, if not all, of the student's life situations. The student must demonstrate a consistent pattern of depression or

unhappiness in keeping with the criterion, "long period of time" (i.e., several months). This pattern is not a temporary response to situational factors or to a medical condition. Examples of typical characteristics associated with depression or unhappiness include but are not limited to:

- depressed or irritable mood most of the time (e.g., feeling sad, appearing tearful);
- diminished interest or pleasure in daily activities;
- significant and unexpected changes in weight or appetite;
- insomnia or hypersomnia nearly every day;
- fatigue or diminished energy nearly every day;
- feelings of worthlessness or excessive or inappropriate guilt;
- diminished ability to think or concentrate or indecisiveness nearly every day; and
- recurrent thoughts of death or suicidal ideation (Diagnostic and Statistical Manual of the American Psychiatric Association, IV Edition, Text Revision [DSM IV-TR] DSM IV TR 2000).

Characteristics of mood disorders are outlined in the DSM IV- TR and may be used by appropriate personnel within the school setting as a resource but only by qualified licensed professionals (e.g., licensed psychologist or licensed clinical social worker) for the purpose of diagnosis and treatment of people with various mental disorders.

A DSM IV-TR diagnosis of a mental disorder is not required for special education eligibility under IDEA; therefore, eligibility for special education under ED should not be contingent on meeting such diagnostic criteria. In addition, the characteristics should not be a secondary manifestation attributable to substance abuse, medication or a general medical condition (e.g., hypothyroidism). The characteristics cannot be the effect of normal bereavement.

- e. The student exhibits a tendency to develop physical symptoms or fears associated with personal or school problems.

This characteristic requires documentation that the student exhibits physical symptoms or fears associated with personal or school life. Examples of these characteristics include but are not limited to:

- headaches;
- gastrointestinal problems;
- cardiopulmonary symptoms;
- incapacitating feelings of anxiety often accompanied by trembling, hyperventilating and/or dizziness
- panic attacks characterized by physical symptoms, for example, when an object, activity, individual or situation cannot be avoided or is confronted;
- persistent and irrational fears of particular objects or situations; and
- intense fears or irrational thoughts related to separation from parents.

Physical symptoms that qualify under the ED characteristic should adhere to the following four conditions:

- symptoms suggesting physical disorders are present with no demonstrable medical findings;
- positive evidence or strong presumption exists that these symptoms are linked to psychological factors/conflict;
- lack of evidence that the person is not conscious of intentionally producing the symptoms; and
- the symptoms are not a culturally sanctioned response pattern.

Note: Culturally sanctioned responses are particular symptoms and social responses influenced by cultural factors and often demonstrated within specific cultural settings or environments.

## Qualifying Conditions or Limiting Criteria

### **Question 2: Is the student's educational performance adversely affected?**

As a necessary condition to determining special education eligibility for a student with an emotional disability, the team must determine that educational performance is adversely affected as a result of dysfunctional school-related behaviors and/or affective reactions. Evidence must exist that supports a relationship between the student's school-related behaviors and/or affective relations and decreased educational performance. While adverse effect on educational performance may imply a marked difference between the student's academic performance and reasonable (not optimal) expectations of performance, the definition of education performance cannot be limited to academics. This position is clarified by the Office of Special Education Programs (OSEP) in a March 8, 2007, *Letter to Clark*, 48 IDELR 77 where "educational performance" as used in the IDEA and its implementing regulations is defined as not limited to academic performance. Furthermore, based upon the IDEA definitions of a child with a disability in 34 C.F.R. Section 300.8(a)(1) and specifically the definition of a child with an emotional disturbance, along with the definition of special education found in 34 C.F.R. Section 300.39, it is clear that special education and specialized instruction encompass more than only academic instruction. Adverse effect on educational performance cannot, therefore, be based solely on discrepancies in age or grade level performance in academic subject areas. Rather, when determining if a student's emotional disturbance has an adverse effect on educational performance, teams must consider all aspects of the child's functioning at school, including academic, social/emotional, cognitive, communication, vocational and independent living skills. An adverse effect can be manifested through behavioral difficulties at school; impaired or inappropriate social relations; impaired work skills, such as being disorganized, tardy; having trouble getting to school on time; and difficulty with following the rules.

Indicators of educational performance can include present and past grades, report cards and reports of progress (social emotional and/or academic), achievement test scores and measures of ongoing classroom performance such as *curriculum*-based assessment (formative and summative assessments), work samples and data relative to responses to tiered and targeted interventions. The appropriateness of the school district's educational goals, as reflected in the curriculum and in the formal grading reports, should also be considered. Various types of standards must be applied when making judgments about student progress to determine what constitutes adverse effect on educational performance. The student's overall performance should demonstrate a marked difference between actual and expected school performance. While determining a student's cognitive abilities and level of academic achievement may be useful, the focus should be placed on the student's overall performance in school and his or her response to interventions as illustrated in the data resulting from progress monitoring activities. Some students attain adequate achievement test scores, but do not demonstrate appropriate academic progress; for example, when a severe and chronic pattern of failing to persevere with tasks and complete classroom assignments leads to repeated failure in subject matter courses. In this case, the student's resulting failure in subject matter courses can be considered an adverse effect. However, it must also be noted, that 34 C.F.R. Section 300.101(c) states that a free and appropriate public education (FAPE), must be available to any child with a disability who needs special education and related services, even if the child has not failed or been retained in a course or grade and is advancing from grade to grade. Therefore, as is the case for any student with a disability, the determination of whether a student's emotional status "adversely affects educational performance" must be made on a case by case basis and is dependent on the unique needs of the particular child (March 8, 2007, *Letter to Clark*, 48 IDELR 77).

The documentation of adversely affected educational performance must also substantiate that the educational deficiencies persist over time in spite of specific alternative strategies that have been provided within the general education setting. The team should have evidence that tiered interventions, such as positive behavioral supports, home/school collaboration, attendance/counseling/academic supports, behavioral and emotional supports, contracts and/or established behavior interventions and approaches, have been implemented with fidelity. (See section 6, [\*Empirically Supported Prevention and Intervention Strategies\*](#), for suggested tiered interventions.) Evidence of these efforts and their impact should be considered by the team in determining adverse educational performance.