Clause for Confusion:
The Determination of Social Maladjustment in the Evaluation of Emotional Impairment

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Michigan Mandatory Special Education Petition Drive 1972

Grassroots campaign to provide special education to all persons with disabilities.

MASSW was part of the campaign/petition drive

Predated the federal law and provided additional services

Mandated inclusion of school social workers on the evaluation team for E.I.

Michigan is the only state with this mandate
The definition and criteria for the disability category “Emotionally Disturbed” have been riddled with controversy and confusion. There is widespread recognition that efforts to provide effective education to children with emotional/behavioral problems have been largely inadequate.

Students with emotional and behavioral disorders are the most underserved group of all disability groups.

Families are often blamed for their student’s disability. EL students higher rates of delinquency, incarceration, school drop out, teen pregnancy, suicide and substance abuse.

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Challenges: Students with Emotional and Behavioral Disorders

Problem of eligibility is the most pressing concern (Forness & Walker 2000)

Epidemiological estimates indicate that approximately 20% of students exhibit a mental health disorder causing at least mild functional impairment (Bazelon Center 2004)

80% increase in rate of hospitalizations of children with depression

Percentage of students identified under “E.D” has remained constant at about 1% (U.S. Dept. of Education, 2008)

State Differences: Range from Vermont at 1.44% to Arkansas at 1.2%
## Preface: Prevalence Estimates of Childhood Mental Disorders

<table>
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<tr>
<th>Disorder</th>
<th>Estimate (%)</th>
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<tr>
<td>Agoraphobia</td>
<td>2.4&lt;sup&gt;a&lt;/sup&gt;</td>
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<td>Generalized anxiety disorder</td>
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<td>Separation anxiety</td>
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<tr>
<td>Depression</td>
<td>4.3&lt;sup&gt;d&lt;/sup&gt;</td>
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<sup>a</sup>13-18 yrs lifetime prev; <sup>b</sup>8-15 yrs 12-month est; <sup>c</sup>DSM-IV lifetime est for children & adolescents; <sup>d</sup>12-17 yrs.

Sources: Perou et al. (2013)<sup>a, b, c</sup>; Pratt & Brody (2008)<sup>d</sup>
Serious Emotional Disturbance Definition

Congress was searching for a definition for “Serious Emotional Disturbance” (SED) and eventually decided to borrow the definition from a study.
Bowers Study - 1957

Eli Bowers landmark study of 6000 school children in 200 classrooms in 75 school districts across the nation. 207 children were designated as “emotionally disturbed” (3.5%)
• (162 boys and 45 girls)

Major differences in behavior between the designated and non-designated students resulted in the five characteristics included in the federal definition.
Five Characteristics

1. An inability to learn that cannot be adequately explained by intellectual sensory or health factors
2. Inability to build or maintain satisfactory interpersonal relationships
3. Inappropriate types of feelings or behaviors under normal circumstances
4. A general pervasive mood of happiness and depression
5. A tendency to develop physical symptoms and fears associated with personal or school experiences
Federal Definition of E.D. (E.I. or E.B.D.)

One or more of the five characteristics

Additionally, Emotional Disturbance includes Schizophrenia

Over an extended period of time

Adversely affects educational performance.
Federal EI Definition - Reactions

Vague and highly subjective (Gresham 2005)

Nebulous and uncertain (Jenson & Clark 2004)

Lacks consistency with DSM language/categories

“When such definitions limit or prescribe who may or may not receive services, the definitional problem becomes significant for students, their families and schools.”

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Socially Maladjusted Exclusion

The Bowers study and its proposed definition did NOT include the clause "does not include children who are socially maladjusted unless it is determined that they are seriously emotionally disturbed."

The legislative history and other historical circumstances do not support the notion that the socially maladjusted were meant to be excluded.

Congress simply intended to exclude juvenile delinquents?

Eli Bower called it “inherently illogical” since the emotionally disturbed child would be socially maladjusted in school.

“The final addendum regarding social maladjustment is incomprehensible”

(Kauffman, 1997)
Where did this phrase come from?

First used in federal grants to train teachers for “Exceptional Children”

1957: “Exceptional children includes children who are maladjusted, socially & emotionally.”

1963: SM and ED were grouped together

“Highly irregular political move” – referred to committee on Interstate & Foreign Commerce. Here it was first determined that SM could be distinguished from ED (Office of School Reform in 

"Non-handicapped delinquent students whose only difficulties were anti-social behavior.”

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“Historical and legal analyses suggest that, far from representing a congressional intent to exclude children with conduct disorders, the social maladjustment exclusion may be little more than an historical anomaly”
Few changes to definition since 1975

Children with Autism removed from E.D. The term "seriously" was removed. (IDEA 1997)

No changes in IDEA 2004

“The definition of an emotional disturbance still allows for the exclusion of children deemed “socially maladjusted” based on the conceptualization of Brower in 1957. It is high time to abandon this obsolete distinction in favor of serving all children whose learning is adversely affected by emotional or behavioral difficulties.”

Jim Raines, 2004
Professor & SSWAA President
What does it mean??

Federal and most state statutes and regulations are “silent” regarding a definition of “social maladjustment”.

Lack of underlying theoretical foundation for the definition and consistent processes to address the criteria.
Few States State Regulations

Some exclude Students who have:
Persistent pattern of anti-social, rule-breaking behavior or aggressive behavior, including defiance, fighting, bullying, disruptiveness, exploitiveness and disturbed relations with peers and adult.

California related service regulations:
“Deliberate noncompliance with accepted social rules, a demonstrated inability to control unacceptable behavior and the absence of a treatable mental health disorder."
Socially Maladjusted

I'M BART SIMPSON! WHO THE ARE YOU?

Emotionally Impaired

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Why Include Socially Maladjusted Students?

Professional responsibilities (ethics)
Co-morbidity & variable symptomatology
Psychometric errors (rating scales, informants)
Avoid exclusion of difficult students (including suspensions/expulsions)

These children, if not treated, tend to persist into adulthood with their inappropriate interpersonal and socially deviant behavior often resulting in criminal activity, poor marital adjustment and social relations, and work-related problems.

We are under-identifying students with significant mental health needs
Why Exclude Socially Maladjusted Students?

Intent of the Law

Budgetary Constraints

Professional Responsibility (Ethics)
  * Responsibility to colleagues, employer

Prognosis

Program Integrity
Case Law Basics

1. Does the law apply to me?
   - Jurisdiction: see map
   - Fact pattern: similar enough?

2. If yes, what is the law?
   - Holding versus dicta

3. Has the law changed?
   - Overturned by different case, new statute or new regulation

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Case Law - Jurisdictions
Eighth Circuit
[AR, IA, MN, MO, NE, ND, SD]

Facts of A.C. case:
- Adolescent female with long history of school refusal, classroom disruption, profanity, insubordination, drug/alcohol abuse, running away from home, criminal conduct, suicide attempts & sexual promiscuity
- Conduct disorder
- Tuition for residential treatment $55,000
- School offered to pay 1/3 (not therapy/lodging costs)
- Services case, not qualification case

Independent Sch. Dist. No. 284 v. A.C., 258 F.3d 769 (8th Cir. 2001)
Eighth Circuit
[AR, IA, MN, MO, NE, ND, SD]

Lower Court:
- No evidence student was UNABLE to attend school;
- Residential treatment not necessary to meet her EDUCATIONAL needs.

Appellate Court:
- Will not draw a “stark distinction between unwillingness and inability to behave appropriately”
- Emotional problems not separable from the learning process
- Does emotional problem need “to be addressed in order for child to learn”? 

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Eighth Circuit
[AR, IA, MN, MO, NE, ND, SD]

Facts of *Hansen* case:

- Male fifth grader with conduct disorder, bipolar disorder, and ADHD; behaviors included:
  - Threatened to kill self and others; chronic poor academics
- Administrative judge:
  - School didn’t present any evidence
  - Judge wrote 1 paragraph decision saying school won
- Lower court affirmed *Hansen v. Republic R-III Sch. Dist.*, 632 F.3d 1024 (8th Cir., 2011)

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Eighth Circuit
[AR, IA, MN, MO, NE, ND, SD]

Appellate Court: Parents win

Student has inability to build/maintain satisfactory relationships w/teachers & peers
discredited testimony from Director of Special Education because only based on written reports, not observations
sufficient evidence that ED caused academic problems
Defining Legal Cases

Doe v. Sequoia Union High School District (1987). A Federal court ruled that a student with ongoing struggles with authority, along with low tolerance for frustration, manipulation, impulsivity, repeated violations of social norms and whose academic problems were due to substance abuse, truancy, and boredom with school was socially maladjusted, not emotionally disturbed..

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Few Journal Articles and Very Little Research

Barnett Study (2012) E.D. vs. S.M.
Study included 8000 students in schools and juvenile corrections and 27 evaluators.

Practitioners took a holistic approach to eligibility and distinguished between EI and SM with respect to the
a) Nature of the student’s interpersonal relationships
b) Nature of the student’s behaviors
c) The student’s ability to control his or her emotions
Nature of Interpersonal Relationships

Can't I eat lunch with that little-haired girl? I'd be happy...

Rats! Nobody is ever going to like me...

Lunch hour is the loneliest hour of the day!

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Theme: Used a Collaborative Process

- Child Find (Child Study) process
- Collaborating with peers
  - “What does the team think?”
- Exploring etiology of behavior
- Linking needs to services
Theme: Recognized New Student Trends

Examples:

Substance abuse

Exposure to violence – Post-traumatic stress disorder

Differential diagnosis

Muskegon Heights: Marquis Gresham

Posttraumatic Stress Disorder

Exposure to actual or threatened death, serious injury or sexual violence

Directly experiencing, witnessing in person, experiencing repeated exposure to aversive details of the event, etc.

Negative alterations in cognition and mood including negative beliefs and expectations “I am bad” “No one can be trusted”

Markedly diminished interest or participation in significant activities

Feelings of estrangement, reckless and self-destructive behavior, irritable behavior, angry outbursts, problems with concentration
Theme: Ethical Considerations

NASW Code of Ethics: Ethical Principles
• Help people in need
• Challenge social injustice
• Inherent dignity and worth of the person

Ethical Standards:
• Commitment to Clients
• Cultural Competence & Diversity

“To assert that the vast disparities in educational and social outcomes between minority children and their white counterparts are not rooted in past and present racially discriminatory policies and pervasive biases is to intentionally misdiagnose the problem.”
Advocates for reconstructing the identification process from a student centered perspective that addresses the rights and needs of students with emotional and behavioral disabilities.
One Term: Many Interpretations

- Externalizing Disorders
- Conduct Disorder or O.D.D.
- Voluntary/Intentional Behavior
- Psychopathy

Minnesota Model: E.I. with Data

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Externalizing vs. Internalizing Approach

Students with E.D. internalizes their problems through emotions
Students with S.M. externalizes their problems through behaviors
Behavior for the socially maladjusted student is motivated by self-gain and strong survival skills.
Lack of age appropriate concern for their behavior and its effects on others.
Display behavior which may be highly valued within a small subgroup but which may not be within the range of culturally permissible behavior.
Externalizing vs. Internalizing

Display socialized or unsocialized forms of aggression

Anxiety is generally not related to the misbehavior of socially maladjusted youth, unless it is due to the fear of being caught.

Intensity and duration of behavior differs markedly from behaviors typically associated with their peer group.
IF YOU'RE GOING TO GET ANY JOY OUT OF BEING DEPRESSED, YOU'VE GOT TO STAND LIKE THIS...
Voluntary/Intentional Behavior

Char-Em ISD Guidelines (2012)
Social maladjustment is conceptualized as a conduct problem, in which students choose not to conform to socially acceptable rules and norms
Intentionality is the distinguishing feature between social maladjustment and emotional impairment*
Char-Em ISD: SM Characteristics

Extensive peer relationships within a select peer group
Exploits others with charm or manipulation
Reacts with appropriate affect but lacks appropriate guilt
Casual response when confronted about behavior
Refusal to admit mistakes even when caught in the act
Inflated positive self-concept
Char-Em ISD: SM Characteristics

Lack of empathy and little remorse – acts as victim even when perpetrators
Ignores attempts of others to alter their behavior
Understands right from wrong, but chooses “wrong”
Rationalizes behavior and minimizes impact

* Note: In considering this exclusionary clause. that intentionality requires a degree of cognition and developmental maturity seldom seen in young children.
DSM 5 Approach: Conduct Disorder

A. A repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated, as manifested by the presence of three (or more) of the following criteria in the past 12 months, with at least one criterion present in the past 6 months:

Aggression to people and animals
   1. often bullies, threatens, or intimidates others.
   2. often initiates physical fights.
   3. has used a weapon that can cause serious physical harm to others (e.g., a bat, brick, broken bottle, knife, gun).
   4. has been physically cruel to people.
   5. has been physically cruel to animals.
   6. has stolen while confronting a victim (e.g., mugging, purse snatching, extortion, armed robbery).
   7. has forced someone into sexual activity.
Conduct Disorder – DSM 5

Destruction of property:

8. has deliberately engaged in fire setting with the intention of causing serious damage.
9. has deliberately destroyed others’ property (other than by fire setting).

Deceitfulness or theft:

10. has broken into someone else’s house, building, or car.
11. often lies to obtain goods or favors or to avoid obligations (i.e., “cons” others).
12. has stolen items of nontrivial value without confronting a victim (e.g., shoplifting, but without breaking and entering; forgery).
Conduct Disorder – DSM 5

Serious violations of rules:

13. often stays out at night despite parental prohibitions, beginning before age 13 years.

14. has run away from home overnight at least twice while living in parental or parental surrogate home (or once without returning for a lengthy period).

15. is often truant from school, beginning before age 13 years.

B. The disturbance in behavior causes clinically significant impairment in social, academic, or occupational functioning.

C. If the individual is age 18 years or older, criteria are not met for Antisocial Personality Disorder.
Conduct Disorder: Specify Severity

Mild

few if any conduct problems in excess of those required to make the diagnosis and conduct problems cause only minor harm to others (e.g., lying, truancy, staying out after dark without permission).

Moderate

number of conduct problems and effect on others intermediate between “mild” and “severe” (e.g., stealing without confronting a victim, vandalism).

Severe

many conduct problems in excess of those required to make the diagnosis or conduct problems cause considerable harm to others (e.g., forced sex, physical cruelty, use of a weapon, stealing while confronting a victim, breaking and entering).

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Specify with or without “callous” and unemotional traits

The following characteristics (2 or more) are shown persistently over at least 12 months and in more than one relationship or setting:

Lack of remorse or guilt does not feel bad or guilty when he/she does something wrong (except if expressing remorse when caught and/or facing punishment).

Callous-lack of empathy disregards and is unconcerned about the feelings of others.

Inconcerned about performance does not show concern about poor/problematic performance at school, work, or in other important activities.

Shallow or deficient affect does not express feelings or show emotions to others, except in ways that seem shallow or superficial (e.g., emotions are not consistent with actions; can turn emotions “on” or “off” quickly) or when they are used for gain (e.g., to manipulate or intimidate others).

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Oppositional Defiant Disorder DSM 5

A. A pattern of angry/irritable mood, argumentative/defiant behavior, or vindictiveness lasting at least six months as evidenced by at least four symptoms from any of the following categories and exhibited with at least one individual who is not a sibling.

Angry/Irritable Mood
Argumentative, Defiant Behavior
Vindictiveness
"I didn’t do it. Nobody saw me do it. You can’t prove anything"
Oppositional Defiant Disorder DSM 5

Children younger than 5 – Behavior should occur on most days for 6 months.

Children older than 5 – Behavior should occur at least once per week for 6 months

B. The disturbance in behavior is associated with distress in the individual or others within his or her social context (family, peer group) or it impacts negatively on social, educational, occupational or other important areas of functioning.

C. The behaviors do not occur exclusively during the course of a psychotic, substance use, depressive or bipolar disorder. Also, the criteria are not met for disruptive mood dysregulation disorder.
Conduct Disorders: High Comorbidity

These children also have higher incidences of several disorders commonly associated with ED such as problems with attending, earning, and communication, anxiety and mood disorders, impaired social and academic functioning, and depression

(American Psychiatric Association, 2000)

In one study, 70% of special education students exhibited symptoms of S.M.
Lack of Norm-Referenced Rating Scales

Emotional Disturbance Decision Tree™ (EDDT™)
Bryan L. Euler, PhD

Purpose: Assist in the identification of children who qualify for the special education category of emotional disturbance based on federal criteria

Age range: 5 to 18 years
Admin: Individual or group; informant report
Admin time: 15-20 minutes
Qualification level: B

Kits

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Monday. Here we go again.
Psychopathy Approach

Evaluating the “character pathology” of the child to differentiate between E.I. and S.M., specifically psychopathy. Instead of an Axis 1 dx., we are looking for a personality syndrome.

Superficial charm, shallow affect, egocentricity, impulsiveness, lack of guilt or anxiety.

Children who may exploit others and need a different approach to intervention. (Structure and consequences)

Rating Scales:

- Hare Psychopathy Checklist Youth Version (PCL-YV)
  - Available from Multi-Health Systems
- Childhood Psychopathy Scale (1997)

www1.psych.purdue.edu/~dlynam/cpspage.htm

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Psychopathy

Why do I have to go to bed now? I never get to do what I want!

If I grow up to be some sort of psychopath because of this, you'll all be sorry!

Nobody ever became a psychopath because he had to go to bed at a reasonable hour.

Yeah, but you won't let me chew tobacco either! You never know what might push me over the brink!

Go to bed, Calvin.
Screening and Evaluation for Serious Emotional Disability

• Social Maladjustment

Differential diagnosis for social maladjustment has been plagued by a multitude of measurement problems. Extensive review of the methodology for distinguishing serious emotional disturbance and social maladjustment indicates that there is no assessment device or methodology which is both technically adequate and validated specifically for the purpose of distinguishing social maladjustment (Skiba & Grizzle, 1991).
If the practitioner in the field suspects a child has behavioral or emotional difficulties... the evaluation team must conduct a comprehensive multi-faceted evaluation.... The results of such evaluation should be the primary consideration for eligibility determination.

For educational purposes, medical and/or psychiatric diagnoses do not, in and of themselves, qualify a child as seriously emotionally disturbed. This eligibility determination can only be made by a properly constituted IEP team of persons knowledgeable about the student.

If, after reviewing the results of an appropriate evaluation, the team is satisfied that the student meets the criteria for seriously emotionally disturbed, it is inconsequential whether the student may also be socially maladjusted. Under the federal and state definitions, if the child meets one or more of the five identifying characteristics and the four considerations, he or she is eligible for special education services regardless of the presence or lack of social maladjustment.
When determining eligibility for special education under the category of ED, it is also critical that the PPT consider linguistic differences and cultural influences in the analysis and interpretation of student behavior.

Best practice suggests that PPTs focus on criteria provided in IDEA when assessing for the characteristics of ED.

"Once ED criteria are met any evidence of social maladjustment is irrelevant for purposes of determining eligibility for special education" (McConaughy and Ritter, 2008).
“Minnesota Model” Approach

Review state criteria
Determine severity and duration
Determine educational impact of problem
Determine how data dis/confirm each of the 5 characteristics
Determine need for services
Step #1A: Meet at least 1 criteria?
- inability to learn and
- inability to maintain satisfactory interpersonal relationships
- appropriate types of behavior or feelings
- general pervasive mood of unhappiness or depression;
- tendency to develop physical symptoms or fears

Step #1B: Is the problem of sufficient duration and intensity to constitute a disability?
- for a long period of time (duration)
- to a marked degree (severity)

Step #2: ED causing the academic problem?

"condition . . . Adversely affects a child’s educational performance”

ED, rather than SM, that causes the difficulties?
What does chronic mean?
Sustained, frequent, acute?

How to rule out situational or transitory problems?

What is a “marked degree?”
Overt and observable in educational settings?
Intra- and/or interpersonal disturbance?

Point of comparison? What is significant?

How to determine adverse affect?
Grades, standardized tests, classroom performance?

Is failure required to be considered?
Academics only or do social-emotional functioning, social skills...
Utilize E.I. criteria supported by Data

School Records
Past Interventions
Systematic Observations
Behavioral Rating Scales
Social/Developmental History
Clinical Interviews
DSM Diagnosis
Case Example

Case of Aaron

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SSWAA Resolution Statement on Social Maladjustment (2005)

“This term has primarily been used to deny services to children who have broken school rules. The School Social Work Association of America endorses the position that all students who have behavioral problems that interfere with their ability to learn in the general education classroom have the right to be provided the services and protections of students who are considered to be emotionally disturbed under the provisions of IDEIA 2004.”

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Remember: everyone in the classroom has a story that leads to misbehavior or defiance. 9 times out of 10, the story behind the misbehavior won’t make you angry. It will break your heart.

— Annette Breaux

TheCornerstoneForTeachers.com
References


References


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