

[This correspondence was prepared by Michelle Williams, a Florida advocate and mother of a son with Asperger's Syndrome. She requested an official response from the Office of Special Education Programs, US Department of Education. The response came over fifteen months later, on 24 March 2000.]

November 30, 1998

Mr. Thomas Hehir, Director
Office of Special Education Programs
United States Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Mr. Hehir:

This is to request a policy definition of how public schools are to handle the education issues that surround children diagnosed as having Asperger's Syndrome (a form of high functioning autism). It falls into the category of developmental disorders/pervasive developmental disorders, yet some children who have it are barely affected by it while others will never live outside assisted living facilities as adults.

1. Since Asperger's often impairs learning or causes behaviors that impair learning, isn't it the school district's responsibility to perform the Child Find function to determine if a child may be missing his opportunity to learn because of this disability?
2. When a child is identified as having Asperger's, if it interferes with his ability to learn, does it meet the criteria for exceptional education via the "limited alertness" notation, the same as with Attention Deficit disorders?
3. Doesn't having any disability that impairs learning to the degree that meets Sec. 504 criteria at least mean Sec. 504 protections are available to children with Asperger's?
4. Is Asperger's a disability that meets the criteria for services under IDEA 97?
5. When the child is identified as being gifted but having impaired learning ability due to the other aspects of Asperger's, must the child be placed in LD classes or EH classes if he does not have those diagnoses and does not need those services?
6. When a child with Asperger's needs close supervision and tight behavior monitoring in order to maintain appropriate social and learning behaviors through the day, wouldn't the requirement for "a range of services" apply? Shouldn't a child with Asperger's capable of learning regular or gifted curriculum be allowed to attend regular or gifted classes with interventions or an aide to support his behavioral needs?
7. When a child with Asperger's requires related services, such as occupational, speech, language therapies, counseling, etc., and his education would not otherwise be appropriate without those services, would the child with Aspergers then meet criteria for IDEA 97 services?
8. When a child with Asperger's requires social skills training to learn appropriate learning behaviors, classroom participation behaviors, schoolground behaviors, communication strategies, and inter/intrapersonal interactions, all of which may be

required to allow the child appropriate classroom activities and peer interactions for learning, shouldn't the schools be providing that training as a related service, the same as speech therapy and language therapy are provided?

9. When a child with Asperger's manifests behaviors that "break the rules" because he has Asperger's and the accompanying lack of judgement that is often present, should he be subjected to the uniform discipline provisions of school districts when his disability does not require modifications or accommodations for Asperger's either in a formal Section 504 plan or in an IEP?

10. Does having a behavioral disability but not requiring educational modifications mean a child has to suffer punishment for having the disability? Is there a way for a child with a mild behavioral disability to be given training instead of punishment when his behaviors "break the rules?"

11. When a child with Asperger's requires extensive behavior modification, modification of the curriculum, and counseling, the accompanying "mimicking" symptomatology of Asperger's means that when these children are placed in EH/SED classes, their behavior often deteriorates permanently. If a child with Asperger's is known to imitate the behaviors of others, but needs the combination of counseling, behavior modification, and curriculum modification, can a school district place them in classrooms with children who are aggressive and exhibit multiple inappropriate/maladaptive social behaviors worse than the "subject child's" behaviors simply because "that is the existing EH/SED class"?

12. Can a teacher refuse to have a child with Asperger's in her classroom?

13. Can a teacher refuse to implement the IEP/Sec. 504 interventions or deny responsibility for implementing them for a child with Asperger's placed in the regular classroom?

14. Teachers often complain, "I'm not trained for this..." Is it appropriate to place a child with Asperger's in a regular classroom without also providing training to the teacher so she can provide FAPE to the child? If the child's teacher requires training, should this need be an automatic entry on the IEP?

15. Is it appropriate for a child with Asperger's to be forced to participate in field trips, PE classes, assemblies, etc. that represent overwhelming stimuli and that negatively affect his behavior for days before and after? Is the school allowed to construct alternative assignments/less intensive trips for this child that serve the same educational purpose and do not deny the educational experience other children get who can handle such events?

16. Is it appropriate to exclude a child with Asperger's from field trips because he requires one-to-one supervision during those events?

17. Is it appropriate for teachers or schools to allow playground teasing/bullying to continue until the child with Asperger's can't cope and is psychologically negatively affected?

18. If the school district has not and will not provide appropriate education for a student with Asperger's and the student shows either psychological damage from inappropriate treatment or actual regression, does the parent have the option of withdrawing the student from the placement and refusing to send the child to school until such time as appropriate placement is provided? Please answer this in terms of

a. when private school placements are available and the parents do not have money to make unilateral placements;

b. when public school programs are available but full and students are on waiting lists; and

c. when neither public nor private placements within a reasonable distance provide an appropriate placement and the child does not need such extensive services that a residential setting is required.

19. In the case of #18 when a student remains at home rather than attend a damaging placement, is the school required to provide home instruction, is the parent required to provide home instruction (please keep in mind that most parents are not able to teach their disabled children appropriately), or could parents be liable for child neglect charges for refusing to send their child to school for further "damage processing"?

20. Is it appropriate for either K-12 or post-secondary learning institutions to demand that students with documented language disabilities take/pass foreign language courses even though it represents demanding success in a major area of their disability?

21. Is it appropriate for post-secondary learning institutions refuse to accept a student with Asperger's because "we don't provide that level of accommodations here?"

22. Is it appropriate for post-secondary learning institutions to watch a student with Asperger's fail because interventions are not being given?

23. Is it appropriate for a post-secondary learning institution to "flunk out" a student with Asperger's who has the intellectual capacity and learning ability to pass but for reasons of the immaturity of his disability and lack of judgement of the disability has tried for too long to "make it on his own" the way other students do? Should they permit this student to try again with all his required interventions in place and a mentor to help assure that he is using the interventions and that the interventions are successful?

Please respond so our school districts can know how to deal appropriately with children with Asperger's Syndrome to give them FAPE.

Thanks for all your good work!

Sincerely,

Michele Williams
Education Consultant/Advocate