The distinction between “socially maladjusted” and “seriously emotionally disturbed” children is hard to determine at first glance. Under current decisional case law, one category receives special education services (seriously emotionally disturbed), while the other receives none. The IDEA definition of seriously emotionally disturbed 20 U.S.C. 1400 et.seq has specific characteristics that must be manifest for a student to be considered “eligible”. Yet socially maladjusted children often exhibit similar behaviors. The dividing line seems to be whether the behavior affects the student’s education performance.

I. WHO IS AN “ELIGIBLE” IDEA STUDENT?

In order to be seriously emotionally disturbed, a child must be determined to have a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance. The student must demonstrate:

- An inability to learn which cannot be explained by intellectual, sensory, or health factors;
An inability to build or maintain satisfactory interpersonal relationships with peers and adults (the federal definition uses teachers instead of adults, 34 C.F.R. Â§ 300.5 (b)(8));

- or -

- Inappropriate types of behavior or feelings under normal circumstances;

- or -

- A general pervasive mood of anxiety, unhappiness, or depression;

- or -

- A tendency to develop physical symptoms or fears associated with personal or school problems.

Note: This term includes schizophrenic children, but does not include children who are “socially maladjusted” unless it is determined that they are also “seriously emotionally disturbed” within the IDEA definition.

II. HOW IS “SOCIAL MALADJUSTMENT” DEFINED?

“Socially maladjusted” had many different definitions. Two such definitions are: (1) a child who has a persistent pattern of violating societal norms with truancy, substance abuse, a perpetual struggle with authority, is easily frustrated, impulsive, and manipulative, Doe v. Board of Education of the State of Connecticut, (D. Conn. Oct. 24, 1990); or (2) a child who is incapable of fully profiting from general educational programs of the public schools because of some serious social or emotional handicap but who is expected to profit from special education, Springer by Springer v. Fairfax County School Board, 27 IDELR 367 (1998).
In *Doe v. Sanders*, the Illinois State Board took the position that children whose functioning was impaired by reason of dependency or addiction to alcohol or other substances were not “maladjusted” and therefore not eligible for special education funding. The term “maladjusted” was not defined in the school code but is commonly defined in the dictionary as poorly or inadequately adjusted; lacking harmony with one’s environment from failure to reach a satisfactory adjustment between one’s desires and the conditions of one’s life. This definition has evolved over the years. In 1947 “maladjusted children” meant children who were “truant, incorrigible, delinquent or in need of special education facilities designed to prevent their becoming truant, incorrigible, or delinquent.” In 1961, the definition was changed to include children “who because of social or environmental problems are unable to make constructive use of their school experience and require the provisions of special services designed to promote their educational growth and development.” *Doe v. Sanders*, 189 Ill. App. 3d 572 (September 29, 1989).

### III. WHO IS ELIGIBLE?

Determining which children are actually “emotionally disturbed” is no easy task, often relies heavily on the definition and criteria used, and is not always the same in every case. Almost everyone exhibits some variety of inappropriate behavior. However, the frequency, intensity, duration, and context must be considered in determining the presence of an emotional disturbance. Many teachers would say that 10% to 20% of their students have “emotional problems” while the actual number of those with severe and or chronic problems is closer to 2% to 3% of the school age population. Currently less than one-half that number are formally identified and receive special education services. Robert H. Zabel, *ERIC Digest #454 Emotional Disturbances*; ERIC Clearinghouse on Handicapped and Gifted Children, Reston, VA.

A. Example of a Finding of Ineligibility
The U.S. Court of Appeals for the 4th Circuit recently found a conduct-disordered child not eligible for special education services. *Springer by Springer v. Fairfax County School Board*, 27 IDELR 367 (1998). The parents of an eleventh grader requested reimbursement for their unilateral placement of their child. The hearing officer found their son’s truancy, alcohol and drug problems were related to his conduct disorder, not to an emotional disturbance. Three separate psychologists examined their son and all three stated he was not seriously emotionally disturbed. His parents testified that he got along well with everyone, and it was determined his failing grades were related to his truancy and drug use, not his inability to learn. The court held that a “bad conduct” definition of serious emotional disturbance might include almost as many people in special education as it excluded. Therefore, this court upheld the decisions of the hearing officer and the district court, denying the parents the reimbursement they sought.

B. Finding of Eligibility

In two cases the child was found to be SED and received special education services or a 504 plan. In another, the child could be SED if a physical exam showed the disabilities did not result from a health issue.


The parents of a thirteen-year-old student with anxiety and separation disorders was found to be seriously emotionally disturbed. The hearing officer determined that her disability did not substantially limit a major life activity (most notably learning). Experts on both sides stated that she needed individual therapy in order to
maintain regular attendance, but there was no proof that she needed individual instruction. Therefore, she was eligible under section 504 to receive the necessary related services, but she was not eligible under IDEA.


Parents of a high school student unilaterally placed their child in a residential placement and were seeking reimbursement from the district. The district refused to pay because she was not seriously emotionally disturbed, according to their test results. However, the residential placement staff found that she was in fact SED. The overwhelming evidence was that she was either unhappy or depressed over a considerable length of time, that this mood affected all of her behavior, and that her emotional state affected her scholastic performance. The review officer affirmed the decision requiring the district to pay room and board from January 23, 1996 until it is shown that a less restrictive environment is appropriate.


The parent of a fourteen-year-old child appealed a decision that their child was not seriously emotionally disturbed. The review officer held that the child’s emotional difficulties had, in fact, impacted significantly on his education performance even though the child had not failed any courses. The child also experienced physical symptoms at school. The hearing officer determined that the child met the criteria for SED but due to the fat
that no observations had been done in the classroom, a final decision on his eligibility would have to wait until the observations were complete. These observations would provide information about the child’s learning style, his educational strengths and his weaknesses enabling the school to develop an appropriate individualized educational plan (“IEP”).

C. Other Finding of Ineligibility

In other instances the hearing officer has overruled the labeling of a child as SED. In the City Sch. Distr. Of NYC, 20 IDELR 727 (December 6, 1993), the parents of a child request a due process hearing to challenge the school district’s classification of their daughter as SED. The state review officer held that a classification of emotionally disturbed cannot be basis for excluding health factors as a source of the child’s academic difficulties. It was ordered that within thirty days a physical examination must occur and a new recommendation as to classification and placement be made.

More often than not, the schools and then the hearing officers find the child does not qualify as seriously emotionally disturbed because they are only “socially maladjusted.” Therefore, no services are provided for those students. The following cases summarize the holding of some of those decisions.


The parent of a twelve-year-old student wanted their son placed in a residential setting. However, their son was found to be learning disabled, not emotionally disturbed. The hearing officer found the child did not met the criteria of SED because he was socially
maladjusted and therefore not entitled to special education services. The hearing officer rejected the district’s proposal and directed the IEP team to meet and determine an appropriate day treatment program that would include therapeutic individuals as well as family counseling.


The parent of an eighteen-year-old student wanted their son placed residentially because he was SED. The hearing officer held for the district because it was determined the child was learning disabled and socially maladjusted, not emotionally disturbed. The officer stated that if a child is SED and socially maladjusted, then he qualifies as SED, and his social maladjustment does not preempt the SED as a qualifying disability for special education and related services. The duty of special education is not to force socially maladjusted children to school by residentially placing them if they chose to remain truant. Therefore, the child (should he choose to attend school) would have his needs met through the proposed IEP.


The parents of nine-year-old wanted their daughter classified as seriously emotionally disturbed so she could receive special education services. The hearing officer held for the district and denied placement in special education. The hearing officer found that the child did exhibit rage and behavioral problems as home and was categorized as “asocial” but she was making significant progress in school. The officer also found her to be well adjusted in the school setting.
Therefore, the child was benefiting from the regular education program and this is where she would remain.

**Bessemer City Board of Education**, 19 IDELR 652 (December 16, 1992).

The parent of a student who was expelled from school for fighting brought this action claiming their son was “socially maladjusted” and therefore could not be expelled from school. The school said that even if the child was socially maladjusted, he would have to meet the IDEA criteria for SED before becoming ineligible for expulsion. The hearing officer then found that the child did not meet the definition of socially maladjusted, therefore, he was not protected by the state law guarantees for exceptional children, and his expulsion had not been improper.


Parents of a child sought to have their daughter classified as emotionally disturbed so she could receive special education services. This court affirmed the ruling of the trial court in finding the child was not emotionally disturbed. The testimony present in the case supported the finding that A.E. suffered from a conduct disorder, but was not SED within the federal definition. A.E. would continue to receive services for her learning disability in math, but not services for the SED diagnostic category.


The parents of a child with emotional problems brought an appeal from the hearing officer’s decision. Although it was confirmed the child had some emotional difficulties, it was determined that these did not
impede or adversely affect his educational performance. The district court affirmed the decision of the state board of education that Doe was not SED and therefore was not entitled to special education services.

IV. CONCLUSION

Special educators have renewed their debate over how to define children with emotional disturbances who qualify for special education when the new IDEA was proposed. The new IDEA did drop the word “serious” from emotionally disturbed but this change will not have an effect on the definition. Until an entirely new definition is created listing specific behaviors that can be observed in interviews and in social settings, this area of law will continue in the direction of denial of services.