



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee  
**FROM:** Kimberly Young Wilkins *Kimberly Young Wilkins*  
**SUBJECT:** Special Education Disability Classification "Emotional Disturbance"  
**DATE:** January 2, 2020  
**AUTHORIZATION(S):** *Sharon L. Takee*

### SUMMARY

#### Issue for Discussion

Should the Board of Regents consider replacing the term "emotional disturbance" in section 200.1(zz)(4) of the Commissioner's Regulations?

#### Reason(s) for Consideration

For information and discussion purposes.

#### Proposed Handling

This question will come before the P-12 Education Committee for discussion at the January 2020 meeting of the Board of Regents.

#### Procedural History

N/A

#### Background Information

Section 300.8 of Title 34 of the Code of Federal Regulations that implements the Individuals with Disabilities Education Act 2004 (IDEA) defines "child with a disability" to mean a child who has been evaluated to have one of the following 13 disability categories and who, by reason thereof, needs special education and related services: "an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), **a serious emotional disturbance**

(referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities...” Section 300.8 of Title 34 of the Code of Federal Regulations also provides a definition of each of the 13 disability categories.

Consistent with federal regulations, section 200.1(zz) of the Commissioner’s Regulations [8 NYCRR] defines “student with a disability” to include these same 13 disability classifications and defines “emotional disturbance” as follows:

- “(4) Emotional disturbance means 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:
- (i) an inability to learn that cannot be explained by intellectual, sensory, or health factors.
  - (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
  - (iii) inappropriate types of behavior or feelings under normal circumstances.
  - (iv) a general pervasive mood of unhappiness or depression.
  - (v) a tendency to develop physical symptoms or fears associated with personal or school problems.

The term emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.”

School districts have an obligation to locate, identify and evaluate a student who is suspected of having a disability to determine eligibility for special education and related services. Based on the results of the individual evaluation, the committee on special education (CSE) must make a determination as to whether a student meets the eligibility criteria for special education and identify the student’s disability based on a review of the definitions associated with the disability categories defined in section 200.1(zz) of the Commissioner’s Regulations. The disability category is necessary to determine a student’s eligibility for special education services. Decisions regarding the provision of services that are appropriate for the student are based on the student’s individual and unique needs, and not on the disability category in which the student is classified.

## **OTHER STATES**

The chart below provides information obtained from the 50 states on the terminology used for the classification of emotional disturbance. This information indicates that there is a range in the terminology used by other states.

<b>State</b>	<b>Terminology</b>
Alabama	Emotional Disability
Alaska	Emotional Disturbance
Arkansas	Emotional Disturbance
Arizona	Emotional Disability
California	Emotional Disturbance
Colorado	Serious Emotional Disability
Connecticut	Emotional Disturbance
Delaware	Emotional Disability
Florida	Emotional/Behavioral Disability
Georgia	Emotional and Behavioral Disorder
Hawaii	Emotional Disability
Idaho	Emotional Behavioral Disorder
Illinois	Emotional Disturbance
Indiana	Emotional Disability
Iowa	Behavior disorder (or emotional disturbance)
Kansas	Emotional Disturbance
Kentucky	Emotional/Behavioral Disability
Louisiana	Emotional Disturbance
Maine	Emotional Disturbance
Maryland	Emotional Disability
Massachusetts	Emotional Impairment
Michigan	Emotional Impairment
Minnesota	Emotional or Behavioral Disorder
Mississippi	Emotional disability (also referred to as serious emotional disturbance)
Missouri	Emotional Disturbance
Montana	Emotional Disturbance
Nebraska	Emotional Disturbance
Nevada	Serious Emotional Disturbance
New Hampshire	Emotional Disturbance
New Jersey	Emotionally Disturbed
New Mexico	Emotional Disturbance
New York	Emotional Disturbance
North Carolina	Serious Emotional Disability

State	Terminology
North Dakota	Emotional Disturbance
Ohio	Emotional Disturbance
Oklahoma	Emotional Disturbance
Oregon	Emotional Disturbance
Pennsylvania	Emotional Disturbance
Rhode Island	Emotional Disturbance
South Carolina	Emotional Disability
South Dakota	Emotional Disturbance
Tennessee	Emotional Disturbance
Texas	Emotional Disturbance
Utah	Emotional Disturbance
Vermont	Emotional Disturbance
Virginia	Emotional Disability
Washington	Emotional/Behavioral Disability
West Virginia	Emotional/Behavioral Disorder
Wisconsin	Emotional Behavioral Disability
Wyoming	Emotional Disability

- Seven different terms are used to designate the federal definition’s “emotional disturbance” disability category.
- The term “emotional disturbance” or “serious emotional disturbance” is used by 27 states, “emotional disability” or “serious emotional disability” is used by 12 states, a variation of “emotional/behavioral disability or disorder” is used by 8 states, “emotional impairment” is used by 2 states and “behavior disorder” is used by one state.
- Two of the states that did not use “emotional disturbance” as their primary terminology, used this as a secondary descriptor.

**Related Regent’s Items**

N/A

**Recommendation**

Should the Board of Regents determine that the term “emotional disturbance” be replaced with another term, it is recommended that stakeholder input be sought on suggestions for replacement terminology proposed in any subsequent amendment to section 200.1(zz)(4) of the Commissioner’s Regulations.