Brilliantly Disabled: Fighting for Special Education Services for Students with Asperger’s Disorder

By Melissa A. Sullivan

I. Case of L.I.

L.I. performed well academically throughout her elementary education in Maine’s public school system, but by the time she entered fourth grade, she began exhibiting emotional issues such as anxiety, depression, and distress when dealing with peers in the classroom. Her once large circle of friends diminished in size, and L.I. began to spend most of her time with one female friend who shared her consuming interest in Japanese animation. L.I. attended counseling in and out of school, but she made little progress. She began to miss school and scratch herself, leaving red marks on her arms. Eventually, L.I. attempted suicide by an overdose of prescription medication, after which her parents withdrew her from school. In response to the crisis, L.I.’s school suggested that she be evaluated and receive private tutoring away from home. The tutor was never provided, and after a period of home schooling, L.I.’s parents enrolled her in a private school and demanded that the district reimburse her tuition.

The school’s Pupil Evaluation Team (“PET”) concluded that L.I. had both Asperger’s Syndrome (“AS”) and Adjustment Disorder with Depressed Mood. However, while L.I. needed “social skills and pragmatic language instruction” in order to deal with her disorders, she did not qualify for special education services because there was “no significant adverse impact on her academic progress.” Her parents challenged the determination, and at a hearing on the matter, the hearing officer affirmed the finding, stating that though L.I. is “obviously a troubled young woman” who due to her diagnosis will need to receive mental health services for the rest of her life, “neither the I.D.E.A. nor the Maine Special Education Regulations require a school district to provide special education services to address what is essentially a mental health issue.”

II. Case of J.D.

In May of 2000, J.D. was diagnosed with a number of disabilities and disorders including placement on the Autism Spectrum. In response, an Individual Education Plan (“IEP”) was created, under which J.D. performed at or above his grade level. Later in J.D.’s schooling, he was reevaluated by a psychologist at the school’s expense. The psychologist concluded that due to his above-average IQ score and average performance on language and mathematic tests, J.D. was no longer eligible for special services and recommended that he be declassified. The psychologist also concluded that on the Asperger-Syndrome-Diagnostic Scale, J.D. was unlikely to have AS. J.D.’s parents had an independent psychologist evaluate him, which bolstered their conclusion that J.D. was likely to have AS. The parents thereafter challenged the school’s decision to declassify J.D. In the hearing, the administrative law judge determined that under Minnesota law defining “learning disability,” J.D.’s average academic performance rendered him ineligible for special education services.

III. Case of M.S.

In kindergarten, M.S. was classified as speech impaired by her school’s Committee on Special Education (“CSE”), rendering her eligible for special education services. However, by the time M.S. reached second grade, the CSE determined that her language and academic skills showed her progressing at an age-appropriate level. She was then declassified and placed into a regular second grade classroom. It was not long before her teacher began reporting M.S’s difficulty in the class. M.S. was terrified of change and had difficulty interacting with her peers. Her mother suspected that M.S. may have an Autism Spectrum Disorder (“ASD”) and sought an independent evaluation.

The evaluation determined that while M.S.’s academic skills were on par for her age, she exhibited high levels of anxiety in unfamiliar surroundings and attempted to escape if overwhelmed. The physician noted that these atypical symptoms were moderated by M.S.’s strong intellectual and verbal abilities. She concluded that M.S.’s difficulties were consistent with a diagnosis of “mild, high-functioning Asperger’s Disorder.” M.S.’s mother and teacher referred her to the school’s CSE for reevaluation, but the CSE concluded that because of her average academic functioning, M.S. was ineligible for special services.
All of the students discussed above were diagnosed at one time with Asperger’s Disorder, also known as Asperger’s Syndrome.29 This particular manifestation of the Autism Spectrum has fascinated scientists and physicians since it was first named in the middle of the twentieth century; its “contrasts between areas of near normal function and severe disabilities” as well as “extraordinary skills coexisting with social difficulties” have been a subject of intense study.30 “How can someone be so similar to the rest of us in his behavior and level of functioning in some situations, yet so different in many others?”31

In this article, I will discuss the history and symptoms of Asperger’s Disorder as well as relate some of the common experiences of those with the disorder while attending school. I will then examine the disorder’s place in American public schools under the legal framework that provides special education services for children with disabilities. I will use the examples of L.I., J.D. and M.S. to examine whether the public school system should provide services to students who perform academically on par with their peers while manifesting social and communicative deficits.

IV. Asperger’s Disorder

1. History and Symptoms

Asperger’s Disorder was simultaneously identified by Leo Kanner in 1943 and Hans Asperger in 1944.32 Within a year, each published a paper describing a group of children that they noted to be different from other children they had studied.33 After observing eleven children exhibiting similar atypical symptoms, Kanner addressed the “triad of impairments”: “social difficulty . . . . communicative problems, and repetitive and restricted activities.”34 He particularly noted that the children were of “normal or higher than normal intelligence . . . and without neurological impairment.”35 Asperger observed his subjects as they attended summer camps.36 He noted that some of the children did not engage in play with the rest, and his first paper described the common symptoms among the group as a kind of “autistic intelligence,” while mainstream children were able to learn skills from rote in a mechanical manner; these particular children were capable of solving problems only through their own creative strategies.37

The disorder was mostly forgotten until Lorna Wing coined the term “Asperger’s Syndrome” in 1981 to define what she saw as autism, but with better social and language functioning.38 She considered the term a useful shorthand label, “indicating that autism could affect people with a high IQ and extensive vocabulary as well as those who had no language and significant learning disabilities.”39 As part of an effort to widen the concept of Autism, Wing felt it was important to remind the scientific world that autistic features could be found in individuals with cognitive skills as well as those with low IQs.40

The current Diagnostic and Statistical Manual of Mental Disorders (“DSM-IV”) describes the essential features of Asperger’s Disorder as follows:

A) Qualitative impairment in social interaction, as manifested by at least two of the following:

(1) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;
(2) failure to develop peer relationships appropriate to developmental level;
(3) a lack of spontaneous seeking to share enjoyment, interest, or achievements with other people . . . ;
(4) lack of social or emotional reciprocity.

B) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:

(1) encompasing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;
(2) apparently inflexible adherence to specific, nonfunctional routines or rituals;
(3) stereotyped and repetitive motor manerisms . . . ;
(4) persistent preoccupation with parts of objects.41

To some extent, both symptoms must be present to obtain a diagnosis of Asperger’s Disorder.42 It is important to note that both of these symptoms are also hallmarks of a diagnosis of Autism Disorder.43 However, unlike Autism, Asperger’s Disorder does not present a “clinically significant” delay in “language acquisition” or in “cognitive development of age-appropriate self-help skills, adaptive behavior or curiosity about the environment.”44 “Clinically significant” delay in language is defined as the use of single words by the age of two years and communicative phrases by the age of three years.45

Because most children with Asperger’s Disorder develop normal language and cognitive skills, it is likely that an evaluation will not take place until a child is of school age and begins to have difficulty with social interactions among their classmates.46 Diagnosis is further complicated by the fact that individuals with Asperger’s Disorder will use cognitive or language strengths to compensate for...
areas of weakness. They will often be aware of the difference between themselves and normally developing children, there is a high rate of victimization and social isolation among such individuals, which leads to high comorbidity rates of depression and anxiety disorders.

The DSM-IV’s diagnostic criteria for Asperger’s Disorder have been the subject of much criticism. First, many opponents have argued that the criteria themselves are open to subjective interpretation, making it difficult to determine whether an individual will be diagnosed with Autism or Asperger’s Disorder. Other critics have argued that the definition of “no clinical language delay” of single words at two years is a “significant expressive language delay.” Furthermore, while the child may have “communicative phrases” at three years, critics have questioned whether the repetitive phrases or inappropriate language used by those with Asperger’s could properly be called “communicating.” Other problems with communication are often observed among those with the disorder; their voice is either too loud or the delivery is too quick, and they often will inappropriately use phrases and misunderstand “idioms, humor, sarcasm and other non-literal meanings of spoken language.”

There is also a question as to whether Asperger’s Disorder is meaningfully different from what some clinicians have termed High Functioning Autism (“HFA”). HFA is not a technical diagnosis but is “used informally and descriptively for autism not associated with mental retardation,” which is defined as an IQ above 70. There is currently a split in the profession; “some professionals use [the phrases] Asperger’s Syndrome and HFA interchangeably, while others argue that they are different although related, conditions.” It is most often argued that the difference between the two could be explained by considering Asperger’s as “mild autism with average to above-average intelligence.” One study contrasted the development of children diagnosed with Asperger’s against those diagnosed with HFA, determining that while development progressed at similar rates among both groups at early ages, by age twelve, those diagnosed with Asperger’s had better language skills and better academic achievement. The study postulated that perhaps what is currently termed as “Autism” could in fact be Asperger’s with the additional handicaps of mental retardation or specific language impairment.

It is interesting to note that in the study discussed above, those children with Asperger’s achieved average academic scores compared to normally developing children, and though there was evidence of some learning disabilities, the instance of these was no more prevalent than in the general population. The study’s authors hastened to add that, “[t]his finding does not mean that these children were not having difficulties in school.”

In fact, the mass majority of children with [Asperger’s] were having difficulties in school and their performances were below that expected of their age-matched peers. However, the kinds of difficulties they were experiencing were not reflected in standardized achievement scores. The authors stated that the children’s teachers and parents were reporting difficulties with inattention, focus, and inability to compete homework as well as weaknesses in “problem solving, abstract conceptual learning and generating creative solutions to problems.” These difficulties, the authors explained, are reflective of “executive functioning deficits,” and are not “the kind of things tested for in simple academic achievement standards.” The authors concluded that while these children will encounter difficulties in school settings, the “typical academic and IQ tests” will not be useful in classifying them.

Besides the continued scientific disagreement, there are also practical problems when considering the place of Asperger’s Disorder within the Autism Spectrum. The first concern is that by presenting Asperger’s as a “mild form of autism,” the individual’s disorder will be trivialized. This is thought of as a potentially dangerous mode of description, misleading the public as to the severity of the individual’s impairments; “while the cognitive impairments may be mild, the social difficulties experienced by these individuals may be just as restrictive and damaging as is the case for those who are intellectually severely impaired.”

The second concern is that because parents seem to prefer a diagnosis of Asperger’s over that of Autism, they will be blinded to the severity of their child’s disorder and consequently fail to provide early intervention services at what most agree is the most crucial stage of a child’s development. Many parents feel that Autism is the worst possible diagnosis, delineating “extreme impairment, social isolation and bizarre behavior.” Asperger’s Disorder is “relatively palatable” in comparison. However, because of the misunderstandings associated with the disorder, a parent may expect more progress than is reasonable from such a child.

For example, Seth had been diagnosed with Asperger’s, despite an IQ in the impaired range and limited use of language. After an evaluation, Seth’s school recommended that he attend a special school for autistic children; Seth’s parents disagreed and expressed their wish to send him to a school with a...
strong academic record with fewer accommodations.\textsuperscript{72} In this case, once Seth had been labeled, his parents were partially blinded to his educational needs.\textsuperscript{73} Clinicians urge fellow evaluators to be careful in using the term “Asperger’s,” saying that professionals should consider the child’s level of functioning separate and apart from parents’ feelings.\textsuperscript{74}

The last concern is that an Asperger’s diagnosis as compared to another disorder on the spectrum will affect the services such an individual could receive.\textsuperscript{75} Asperger’s is not as well known to the public as Autism, and it may be difficult for an individual with Asperger’s Disorder to obtain special education services, vocational support services, and other forms of assistance provided to those with recognizable disabilities.\textsuperscript{76} Generally, services that are available to children with Autism are denied to those with Asperger’s, though there is no evidence that programs provided for both disorders would differ substantially.\textsuperscript{77} One critic noted that the Asperger’s diagnosis is of “little value if it is used to discriminate against and deny services to those who need them…”\textsuperscript{78}

2. Living with Asperger’s Disorder

One difficulty in assessing Autism Spectrum Disorders stems from the difficulty involved in self-reporting, which requires an ability to process and verbalize inner feelings.\textsuperscript{79} However, studies have shown that individuals with Asperger’s Disorder are similar to comparison subjects on measures of “private self-consciousness,” which is defined as “attention to the private self such as feelings and motives.”\textsuperscript{80} The autobiographical writings of adults with Asperger’s reveal an awareness of their interpersonal and socio-emotional difficulties.\textsuperscript{81} Through these writings, it is easy to examine how those with Asperger’s Disorder feel about their experience in public schools.

Many expressed a feeling of social awkwardness that led to personal distress.\textsuperscript{82} One student’s inability to understand expressions in language resulted in confusion.\textsuperscript{83} “During the third grade I remember a classmate telling me that he felt like a pizza,” he writes. “I couldn’t figure out what made him feel that way. Besides, he certainly didn’t look like a pizza. Eventually I realized he meant that he felt like eating a pizza.”\textsuperscript{84} Another student expressed her reluctance to play with other children because she did not understand the social rules; “What do I say? What do they say? What do I do? What they will they do? It was all too hard, so I played by myself.”\textsuperscript{85} This awareness of the differences between themselves and other students sets those with Asperger’s apart from other disorders on the spectrum; “[t]he quality of life ratings for more able adults with autism are actually lower than for those with moderate to severe intellectual impairments.”\textsuperscript{86}

Anxiety is also common among students with Asperger’s Disorder.\textsuperscript{87} Classroom learning is set within the “educational system and society at large;” “both convey enormous expectations for academic achievement,” resulting in children experiencing “considerable stress in the classroom.”\textsuperscript{88} As one student writes, “I often had an upset tummy. I lived with constant fear. I was afraid to go to school, afraid to be at school, and afraid to come home from school. I so often didn’t understand what teachers meant when they talked to me.”\textsuperscript{89}

Victimization through schoolyard bullying is an extremely common problem among individuals with Asperger’s:

First grade was when I began to fear other students. Because of some of my idiosyncratic behaviors, there was much unpleasantness and threats by classmates of beating me up after school every day. As a result, I often waited until everyone had left before summoning up the courage to run all the way home from school via an alternate route while keeping an eye out for enemies. Recess was also a nightmare, as I clung to the lunch ladies in fear of other children... [w]hen my parents found out children were bullying me at school and I spent much time cowering with the lunch ladies, they asked me why I never told them about it. I just thought that was how school was supposed to be.\textsuperscript{90}

Adolescents with Asperger’s Disorder suffer from higher rates of depression. According to one study, approximately one in fifteen individuals with Asperger’s meets the diagnostic criteria for depression.\textsuperscript{91} The causes of depression are unknown, but it is likely that a combination of the individual’s awareness of their difference and the ostracizing from peers results in the high rate of depression seen among these individuals.\textsuperscript{92} One student writes, “I was very vulnerable. At one school... the class voted me into the position of class captain. They did this so that they could manipulate and control me for their own gains. I was often ‘set up’ and then made a fool of. I was so gullible.”\textsuperscript{93}

Lastly, suicide attempts are higher among individuals with Asperger’s Disorder compared to the general population.

I always took people literally and believed all that was told to me. I was taunted as the “crazy girl” and called many other such names. By the age of 17 I saw no reason to live. Suicide occupied my thoughts a lot. I thought up
different ways to kill myself, but, although I did attempt to end my life on three occasions, I was unsuccessful. In general, the life of a student with Asperger’s is one of social isolation. One student with Asperger’s Disorder wrote a poem she entitled “Lost” to describe her feelings of loneliness and frustration in existing in a world she wished to be a part of but could not fully understand:

Lost
The movement is all around me,
Their lips, their hands, their faces.
The words come tumbling like a mighty sea,
With waves and without spaces.
The movement then slides away,
I know it will come another day.
When it does, I’ll know what to say.
But it’ll be too late,
They’ll have moved away.
I feel this rush inside of me.
I move, I want to set it free.
I open my mouth,
The movement is gone.
I know I had some wonderful song.
I wander around as my head spins with sound,
I just need more time inside this square mound.
I’ll come through that doorway,
I’ll know what to say.
I just need more time, maybe today?

She describes the many faces, bodies and words of her classmates as a “mighty sea” that covers her and then “slides away,” knowing that it will just return the next day. She continues to desire to express herself, but says she is not ready and needs “more time.” Though it can been seen that this feeling of being lost in a sea of misunderstanding is a common occurrence, the poem ends with a line of hope, that in time she would finally be able to communicate with others.

V. Asperger’s Disorder and the Law

1. Individuals with Disabilities Education Act
In order for a child to receive special education services in American public schools, she must be considered eligible under the Individuals with Disabilities Education Act (“IDEA”). This statute’s purpose is to help the states provide services to children with disabilities by ensuring that each child is provided a “free appropriate public education.” This education should include “special education and related services.” To receive special education services, a child must qualify as a “child with a disability.” IDEA defines a “child with a disability” as a child with:

(i) . . . mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services.

Within the Act’s text, “autism” is listed as a particular disability, while neither Asperger’s Disorder nor the Autism Spectrum is mentioned. Regulations issued by the Secretary of Education have further required that the child’s conditions must “adversely affect a child’s educational performance” to constitute a disability under the Act. Federal regulations allow each state to independently determine what is considered an “adverse affect.”

Under IDEA, the individual student’s school has the ultimate responsibility of evaluating the child for eligibility under the Act. If the child’s parents disagree with a school’s evaluation, they may challenge it before an impartial hearing officer. This officer will make findings of fact and issue an administrative opinion. The parents can then challenge this determination in federal court, where a judge will make a decision based on the preponderance of the evidence.

2. Asperger’s in the Public Schools
In the cases of L.I., J.D., and M.S., each student was at one point diagnosed with Asperger’s Disorder. In each case, the school conceded that at some point, the child had a disability as defined under IDEA. However, because L.I, J.D., and M.S. achieved academic progress on par with their peers, their schools determined that their disability did not adversely affect their academic performance. Each school then concluded that special services were unnecessary for the students. In each case, the parents challenged that initial conclusion.

In the case of L.I., the hearing officer agreed with the school district’s conclusion; though L.I. had an eligible condition under IDEA, it did not affect her “educational performance.” The parents appealed to the federal district court, where the court reversed the hearing officer’s decision; the school then challenged the decision. On appeal, the U.S. First Circuit Court of Appeals held in the parents’ favor,
finding that Maine’s definition of “educational performance . . . encompasses more than mere academic proficiency.” The term is meant to be defined broadly and include “non-academic areas” as well as “extracurricular activities” and “progress in meeting goals established for the general curriculum.” The court also determined that the purpose of education is not merely the acquisition of academic knowledge but also the cultivation of skills and behaviors needed to succeed generally in life. It admonished the hearing officer who said that Asperger’s was “essentially a mental health issue,” agreeing with the district court that “Maine educational performance standards are directly concerned with social needs.”

Using this broad definition of “educational performance,” the court examined L.I.’s case. The lower court noted that L.I. “excelled academically” and received high honors until entering fifth grade. The court then discussed her social difficulties, recounting L.I.’s problems interacting and communicating with peers. The court held that in the face of her social difficulties, L.I.’s academic performance was beside the point; “[e]ven if L.I. has excellent writing skills (to which several teachers attest), nonverbal communication is an important skill to be learned in Maine’s curriculum.” The court found that L.I.’s social deficits, “including her isolation, inflexibility, and self-mutilation during school time,” were “precisely in the content areas and skills that Maine mandates” as part of its public education. The court concluded that L.I.’s condition adversely affected her educational performance, and it directed the school to reconvene the Pupil Evaluation Team (“PET”) to develop an appropriate Individual Education Plan (“IEP”).

In J.D.’s case, the court analyzed Minnesota law to determine his eligibility for special services. Under Minnesota law, a student is eligible for special education services for an Autism Spectrum Disorder when “the pupil demonstrates patterns of behavior indicating . . . a qualitative impairment in social interaction, as documented by two or more behavioral indicators,” and the “ASD adversely affects the pupil’s performance so that the pupil needs special-education and related services.” Here, the court determined that J.D. only exhibited one behavior indicator by showing difficulties understanding social cues; therefore, he did not meet the statute’s prerequisites for special education services. The court also noted the school’s psychologist’s conclusion that J.D. was unlikely to have a disorder on the spectrum, and that J.D.’s teachers had no concerns about his academic progress. The court concluded that J.D. did not have an Autism Spectrum Disorder, and as a result, was not eligible for special education services. The court also found that J.D. did not have a learning disability, pointing to the facts that J.D. had an average IQ score, average achievement test scores, normal curriculum-based measures, and average progress through his regular education. The court did note that his academic performance had not always reflected his apparent ability, but that this did not rise to the level of a disability. The parents’ challenge to the school’s evaluation was therefore denied.

In the case of M.S., the school did not challenge whether the student had Asperger’s Disorder, but whether the disorder affected her educational performance. The hearing officer overturned the school’s decision, finding that, “despite the student’s average to above average grades, her condition adversely affects her educational performance.” The officer noted M.S.’s inappropriate behavior in the classroom; she engaged in impulsive behaviors such as inappropriate licking, touching, and "smashing" stuffed animals together. The officer also noted that by second grade, M.S. had poor attendance, difficulty with change, and weak socialization skills. Her private tutor reported that, “the student was still easily distracted by smells, noises and movement even in a quiet structured environment, and . . . [s]he continued to express anxiety about going to school.” The hearing officer found that it was “clear that the student’s problems with peer interaction and her high level of anxiety made it difficult for her to function in the classroom.”

Given her diagnosis of Asperger’s disorder, her history of attentional and social deficits, her weaknesses in language and motor skills, in addition to her inability to attend school and her need for home instruction,... the student is eligible to be classified under the IDEA because her disability adversely affected her educational performance.

3. Policy Considerations

Although two of the three cases above ultimately show the parents securing special educational services for their children in the public school system, there are several questions raised by their outcomes. In the case of L.I., the court had to broadly define what Maine considered to be “educational performance” in order to find that L.I.’s condition affected her education. The question then becomes whether it is desirable to broadly interpret the services that a school must supply to children within the district in order to provide a free appropriate public education. The suggested
treatment for individuals with Asperger’s Disorder involves various intense behavioral regimens “including Applied Behavior Analysis ... Floortime, [and] sensory integration therapy.” Many of these treatments involve significant amounts of one-on-one time with highly trained professionals. If the definition of “education” is interpreted broadly, the already limited resources provided to America’s public schools will be further stretched.

Another consideration is whether schools should divert resources to children whose academic performances are on par with their peers. Again, due to limited funding and the new standards movement codified in the No Child Left Behind legislation, there is an argument for spending more resources assisting those students who are in the below-average achievement range, rather than their academically-average, but otherwise troubled, peers.

An additional consideration is whether public school is the best place to educate these children. There are many private educational institutions that cater to children such as L.I., J.D., and M.S. Examples include the Corwin Russel School in Sudbury, Massachusetts, an “independent school for high-potential students 11-19 years old with varied learning styles, average to superior intelligence, exceptional creativity, attentional issues, untapped interests, talents, and strengths, and disparity between innate ability and past production,” and the Pathways Academy in Belmont, Massachusetts, “a private, year-round school developed to meet the psychological, social and academic needs of children and adolescents ages six through 22, with Asperger’s Syndrome and related disorders.”

Some argue that these specialized private schools are the best placement for such students, even if only for a short period. The “intense, twenty-four hour training in social skills” can be effective in addressing the student’s social difficulties, and some school districts are willing to pay for tuition. Also, these private schools often offer an atmosphere where a student’s particular interests will be regarded in a positive light rather than as an oddity. Moreover, the self-awareness that is thought to be a cause of depression will be a source of conciliation instead; in being surrounded by others with social difficulties, children with Asperger’s will no longer feel isolated.

Critics argue that students benefit more from being in a mainstream classroom where they can observe the social interactions of average students. Cost is also a consideration; while every parent wants what is best for their child, many are unable to afford the tuition associated with a private education. As can been seen from the three cases above, schools still deny students with Asperger’s their deserved educational services, making it difficult to convince cost-conscious districts to reimburse a special private school’s tuition.

4. Solutions Going Forward

The up-hill battle fought by each of the parents in these cases shows that the special education services landscape must be altered before children with Asperger’s Disorder receive appropriate public education. In response to the difficulties faced by L.I., J.D., and M.S., and the issues discussed by experts, I propose four possible solutions.

The first solution is to educate the public about the difficulties faced by those with Asperger’s Disorder. As seen in the cases above, many do not understand the problems that a lack of social understanding and an inability to communicate can cause, especially in a public school setting. In each of the cases, the school system cited the fact that the student’s academic progress was “average” in denying them services, but it is clear from the students’, parents’, and teachers’ accounts that their classroom experience was far worse than average. Although Asperger’s Disorder is not accompanied by a level of cognitive difficulty like Autism, this fact does not lessen the disorder’s severity.

The second solution is to make the parents of children with Asperger’s more effective advocates. Each of the above cases assessed whether the disorder affected the student’s “educational performance.” Parents must argue for a broader definition of “educational performance,” as was done in L.I.’s case, in order to have a better chance of securing services for their child.

The third solution involves the mental health community advocating for a new, more inclusive definition that would encompass all the disorders on the Autism Spectrum under one diagnostic umbrella. Many experts note that services available for those diagnosed with Autism are often summarily denied to those diagnosed with Asperger’s, even though individuals with both disorders would benefit from the same treatments. Putting aside diagnostic purposes and considering only policy, a more apparent link between the two disorders would likely ease children’s ability to obtain services under either classification.

Lastly, professionals evaluating children should be aware that due to Asperger’s particular nature, traditional assessment tools may not accurately appraise the abilities of students with executive function deficits. To make their assessment as thorough as possible, schools and professionals should employ an array of tools chosen accordingly with the child’s disorder in mind.
VI. Conclusion

In conclusion, there appears to be a particular sector of students in America who are not receiving an education appropriate to their particular challenges as guaranteed under the IDEA. At first, these children may be difficult to identify; to many, they will appear academically gifted, albeit with unusual social quirks. However, as can been seen from the personal memoirs of individuals with Asperger’s Disorder, school can be an overwhelmingly painful and frustrating experience. These children desire to interact with their peers and teachers, but cannot understand the social rules. While it is an unsolved question as to whether these students’ needs are best served in public or private schools, it is clear that their particular difficulties should be understood and addressed to facilitate their best lives, inside and outside of school.

Endnotes

* Melissa A. Sullivan is a graduate of Rutgers, the State University of New Jersey (Class of 2006) and Boston University School of Law (J.D., Class of 2009) and is currently starting her legal career at Lowenstein Sandler in New Jersey. The author would like to thank Professors Daniela Caruso and Helen Tager-Flusberg for their assistance throughout the writing of this article and her family for their continuing support in all things.

1 Mr. I. ex. rel. v. Me. Sch. Admin. Dist. 55, 480 F.3d 1, 6 (1st Cir. 2007); Mr. I. v. Me. Sch. Admin. Dist. 55, 416 F. Supp. 2d 147, 154 (D. Me. 2006).
2 Mr. I., 416 F. Supp. at 154.
3 Mr. I., 480 F.3d at 6; Mr. I., 416 F. Supp. at 154.
4 Mr. I., 480 F.3d at 6; Mr. I., 416 F. Supp. at 154.
5 Mr. I., 480 F.3d at 6; Mr. I., 416 F. Supp. at 154.
6 Mr. I., 480 F.3d at 7.
7 Mr. I., 480 F.3d at 7; Mr. I., 416 F. Supp. at 154.
8 Mr. I., 480 F.3d at 8; Mr. I., 416 F. Supp. at 155.
9 Mr. I., 480 F.3d at 8; Mr. I., 416 F. Supp. at 155.
10 Mr. I., 480 F.3d at 8-9.
12 Id.
13 Id. at *3.
14 Id.
15 Id. at *4.
16 Id. at *5.
17 Id. at *6.
18 Id. at *18- *19.
19 Within the actual hearing document, the child in the New York school system is not named. For ease of reference, the author has created the pseudonym “Mary Smith” or “M.S.” Application of a Child Suspected of Having a Disability, No. 02-085, N.Y. State Education Dept. (Sept 29, 2003), available at http://www.sro.nysed.gov/2002/02-085.htm.
20 Id.
21 Id.
22 Id.
23 Id.
24 Id.
25 Id.
26 Id.
27 Id.
28 Id.
29 This particular disorder is alternatively referred to in scientific literature as “Asperger’s Disorder” and “Asperger’s Syndrome.” For consistency sake, the author has chosen to use the DSM-IV’s nomenclature of “Asperger’s Disorder.”
31 Id. at 4.
32 Id. at 3.
33 Id. at 5.
34 Id. at 6.
35 Id. at 7.
36 Id. at 8.
37 Id. at 9.
38 MARGOT PRIOR, ED., LEARNING AND BEHAVIOR PROBLEMS IN ASPERGER SYNDROME 16 (2003).
40 Id.
41 AM. PSYCHIATRIC ASS’N Diagnostic and Statistical Manual of Mental Disorders 84 (4th ed. 2000).
42 Id. at 80.
43 Id.
44 Id. at 81.
45 Id.
46 Id.
47 Id. at 82.
48 Id.
49 MESIBOV, supra note 30, at 31.
50 Id. (It is important to note that the criteria for Asperger’s Disorder contains a “precedence rule”; a diagnosis of Asperger’s Disorder will only be given if criteria are not met for another specific Pervasive Developmental Disorder, including Autism).
51 Id.
52 Id.
53 Id. at 32.
54 Id. at 35.
55 Id. at 5.
56 MESIBOV, supra note 30, at 35; PRIOR, supra note 38, at 4.
57 MESIBOV, supra note 30, at 36.
because her “condition did not adversely affect” her educational performance. Mr. I., 480 F.3d at 9. The district court rejected the magistrate judge’s recommendation, determining that L.I.’s disorder “had exerted an adverse effect...” Id.

Mr. I., 480 F.3d at 11.

Mr. I., 480 F.3d at 17.

Mr. I., 480 F.3d at 161.

Id. at 162.

Id. at 163.

Mr. I., 416 F. Supp. at 168; Mr. I., 480 F.3d at 27.


Id.

Mr. I., 416 F. Supp. at 159.

Mr. I., 416 F. Supp. at 161.

Id. at 16.

Mr. I., 416 F. Supp. at 15.

Id. at 17.

Id. at 16.

Id. at 27.

Mr. I., 416 F. Supp. at 17.

Mr. I., 416 F. Supp. at 16.

Id. at 16.

Id. at 30 at 37; HOWLIN, supra note 39, at 16-17.

HOWLIN, supra note 39, at 17.

See generally MESIBOV, supra note 30.

id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

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Id.

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HOWLIN, supra note 39, at 17.

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