

Identifying Autism Across the Spectrum: Strategies for School Teams

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Legal Foundations

SPECIAL EDUCATION & THE LAW

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Initial Evaluation §300.301

(a) General. Each public agency must conduct a full and individual initial **evaluation**, in accordance with §§300.305 and 300.306, **before** the initial provision of special education and related services to a child with a disability under this part.

3

Free Appropriate Public Education



4



The Purpose of Special Education

To ensure that all children with disabilities have available to them a **free appropriate public education** that emphasizes special education and related services designed to meet their **unique** need and **prepare** them for **further education, employment, and independent living**

(IDEA) §300.1 (emphasis added)

5



Child Find 3301-51-03

Each school district shall adopt and implement written policies and procedures...that ensure **all children with disabilities** residing within the district...**and who are in need of special education** and related services **are identified, located, and evaluated** as required by the Individuals with Disabilities Education Act...

Operating Standards for Ohio Educational Agencies Serving Children With Disabilities (2008)

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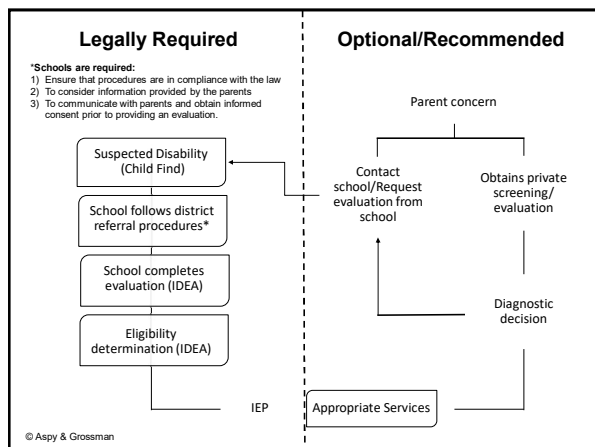
Child Find

“ . . . all children with disabilities . . . ”

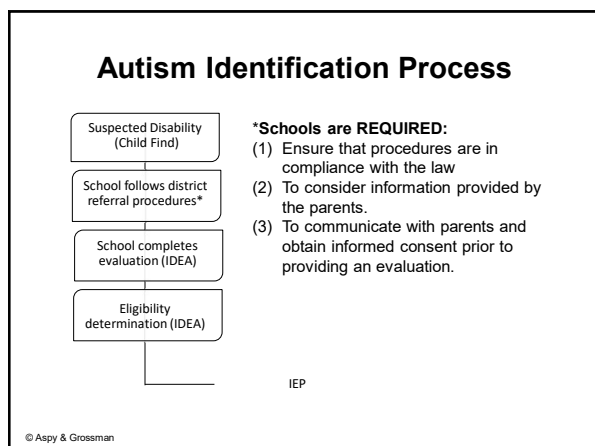
Applies from birth to age 21



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Child with a Disability Means...

A child evaluated in accordance with rule 3301-51-06 of the Administrative Code as having a cognitive disability (mental retardation), a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this rule as “emotional disturbance”), an orthopedic impairment, **autism**, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

Operating Standards for Ohio Educational Agencies Serving Children With Disabilities (2008)

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Child with a Disability Means...

- | | |
|-----------------------------------|----------------------------------|
| ➤ cognitive disability | ➤ autism |
| ➤ a hearing impairment | ➤ traumatic brain injury |
| ➤ a speech or language impairment | ➤ an other health impairment |
| ➤ a visual impairment | ➤ a specific learning disability |
| ➤ a serious emotional disturbance | ➤ deaf-blindness, or |
| ➤ an orthopedic impairment | ➤ multiple disabilities |

and who, by reason thereof, needs special education and related services.

Operating Standards for Ohio Educational Agencies Serving Children With Disabilities (2008)

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All Areas of Suspected Disability

A child **must** be tested in **all** areas of **suspected** disability.

20 U.S.C. § 1414(b)

12

IDEA (2004) on Evaluation Procedures

The public agency must use a **variety of tools and strategies** to gather relevant **functional, developmental, and academic** information about the child ...

300.304 (b)(1)



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Case Law You be the Judge



Timothy O. v. Paso Robles Unified School District

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Timothy O. v. Paso Robles Unified School District

Luke displayed symptoms of a developmental disorder early in life. When he was twenty-seven months old, he began to receive speech, language, and occupational therapy at the Tri-Counties Regional Center ("Tri-Counties").

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

Parents met with staff from Tri-Counties and Paso Robles to discuss what would happen when Luke turned three years old. During that meeting, Paso Robles scheduled a date on which it would conduct an initial assessment to determine whether Luke was a child with a disability and therefore qualified for special education and related services under the IDEA.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

There were concerns about his speech. It was determined that that Tri-Counties would perform a psychological assessment—presumably to test for Autistic Disorder—in order to determine whether he qualified for further regional center services.

A few weeks before Luke’s third birthday, Paso Robles conducted Luke’s initial evaluation. The notice did not mention assessment for autism.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

Staff observed Luke and tried to engage him in play, but their attempts to utilize standard assessment tools were unsuccessful because of his “compliance” issues. During the assessment, Peck, a Paso Robles psychologist, stopped by and observed Luke for approximately thirty to forty minutes.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

Although the notice to Luke's parents mentioned nothing about Peck's involvement, Peck later testified that he came to observe in order to "consult with the staff in terms of possible handicapping conditions which may be – may have or may not have been present."

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

From his cursory observation, during which he did not utilize any standard assessment tools, Peck concluded that there was no need for Paso Robles to formally assess Luke *for any disorder on the autism spectrum because he saw Luke use a "variety of facial expressions," display emotions, and demonstrate his "skill at turn-taking."* In Peck's opinion, this was *uncharacteristic of a child with a disorder on the autism spectrum.*

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

On **November 18, 2009**, Tri-Counties performed a psychological assessment of Luke to determine whether he had Autistic Disorder. Dr. Griffin provisionally diagnosed Pervasive Developmental Disorder, Not Otherwise Specified ("PDDNOS").

Tri-Counties sent a copy of Dr. Griffin's report to the school district. Despite its diagnosis and recommendation, the report was not discussed at the IEP meeting; nor did the district reevaluate its decision not to assess Luke for autism.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

The district concluded that Dr. Griffin's diagnosis was insufficient to even create suspicion that Luke had a disorder on the autism spectrum because Peck's earlier observation of Luke had dispelled any suspicion that Luke had such a disorder and because Dr. Griffin's "provisional" diagnosis was not conclusive.

The IEP that was created as a result of the meeting identified Luke's disability as a "speech or language impairment."

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

At an IEP meeting on **December 2010**, staff expressed concern that Luke was not talking to either adults or peers and suggested that he might have "selective mutism." Luke's parents reported that he was having tantrums at home, including crying and aggressive behavior.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

On **January 2011**, parent's attorney sent a letter informing the District that Luke had obtained legal representation and that his **parents requested that the school fund an independent educational evaluation of Luke for autism**. His parents also retained the services of a behavior specialist and had him privately assessed for autism by Dr. B.J. Freeman who diagnosed Luke with Autistic Disorder.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

The next month, Paso Robles announced that it would finally do a formal and comprehensive evaluation of Luke. Paso Robles did not **complete the assessment** for almost an entire year, until **January 2012**.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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Timothy O. v. Paso Robles Unified School District

On July 6, 2011, Luke's parents filed a request for a due process hearing alleging that Paso Robles violated the procedural and substantive requirements of the IDEA by (1) failing to assess Luke in all areas of suspected disability, specifically autism; and (2) failing to appropriately address his behavioral issues, such as refusing to speak, tantrums, and non-compliance, during the 2010–2011 school year. They further alleged that the school denied Luke FAPE during the 2009–2010 and 2010–2011 school years.

Adapted from Timothy O. V. Paso Robles Unified School, 822 F.3rd 1105 (9th Cir. 2016)

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You be the judge



Did the district violate procedural and substantive requirements of the IDEA by:

1. Failing to assess Luke in all areas of suspected disability?
2. Failing to appropriately address his behavioral issues during the 2010–2011 school year?
3. Did the district deny Luke a free appropriate public education?

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OSEP Letter to State Directors of Special Education (2011)

SUBJECT: A Response to Intervention (RTI)
Process Cannot be Used to Delay-Deny an
Evaluation for Eligibility under the
Individuals with Disabilities Act (IDEA)



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United States Department of Education Office of Special Education Programs and Rehabilitation Services

January 21, 2011

The provisions related to **child find** in section 612(a)(3) of the Individuals with Disabilities Education Act (IDEA) require that a State have in effect policies and procedures to ensure that the State identifies, locates and evaluates all children with disabilities residing in the State.

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United States Department of Education Office of Special Education Programs and Rehabilitation Services

January 21, 2011

States and LEAs have an **obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.**

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**United States Department of
Education Office of Special
Education Programs and
Rehabilitation Services**

January 21, 2011


It is critical that this identification occur in a timely manner and that no procedures or practices result in delaying or denying this identification. **It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation** for children suspected of having a disability.

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Autism Spectrum Disorder Defined

OHIO'S OPERATING STANDARDS,
IDEA, AND DSM

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Ohio Definition of Autism

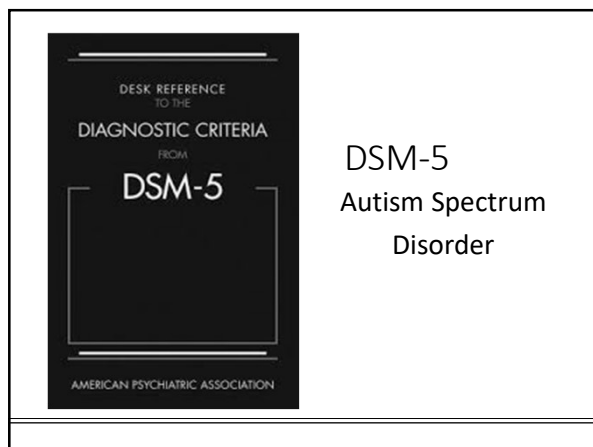
Means a developmental **disability** significantly affecting **verbal and non-verbal communication and social interaction**, generally evident before age 3, that adversely affects a child's educational performance. Other characteristics often associated with "autism" are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Operating Standards for Ohio Educational Agencies Serving Children With Disabilities (2008)

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DSM IV	DSM - 5
<u>3 symptom areas:</u> <ol style="list-style-type: none"> 1. qualitative impairment in social interaction 2. a qualitative impairment in communication 3. restricted and repetitive behavior. 	<u>2 symptom areas:</u> <ol style="list-style-type: none"> 1. deficits in social communication 2. restricted, repetitive patterns of behavior

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Deficits in social communication and social interaction (3/3)

1. Deficits in social-emotional reciprocity
2. Deficits in nonverbal communicative behaviors used for social interaction
3. Deficits in developing, maintaining, and understanding relationships



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Restricted, repetitive patterns of behavior, interests, or activities (2/4)

1. Stereotyped or repetitive motor movements, use of objects, or speech
2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns or verbal nonverbal behavior
3. Highly restricted, fixated interests that are abnormal in intensity or focus
4. Hyper- or hyporeactivity to sensory input or unusual interests in sensory aspects of the environment



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Specifiers in DSM - 5

- With or without accompanying intellectual and/or language impairment
- Association with a known medical, genetic condition, or environmental factor
- Association with another neurodevelopmental, mental, or behavior disorder or catatonia
- Severity of expression from Level 1 to Level 3 based on the level of support needed for social communication and restricted, repetitive behaviors




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Autism Characteristics Activity	
State Definition	DSM - 5 Characteristics
Required Features	
Disability affecting verbal communication	a. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
Disability affecting nonverbal communication	b. Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.
Disability affecting social interactions	c. Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.
Associated Features	
Repetitive activities	d. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypes, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
Stereotyped movements	e. Insistence on sameness, inflexible adherence to routines, or ritualized patterns or verbal nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat food every day).
Resistance to environmental change	f. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interest).
Resistance to changes in daily routines	g. Hyper- or hyporeactivity to sensory input or unusual interests in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching of objects, visual fascination with lights or movement).
Unusual responses to sensory experiences	

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Adverse Effect

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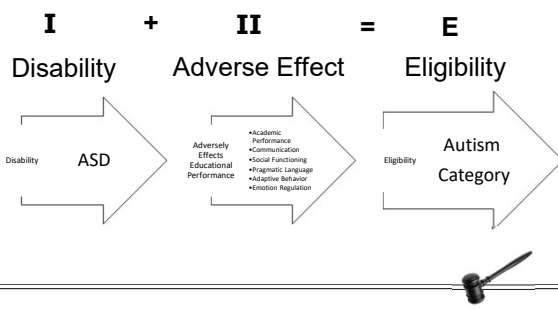
Ohio Definition of Autism

Means a developmental **disability** significantly affecting verbal and non-verbal communication and social interaction, generally evident before age 3, **that ADVERSELY AFFECTS a child's educational performance**. Other characteristics often associated with "autism" are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Operating Standards for Ohio Educational Agencies Serving Children With Disabilities (2008)

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Two Tiers to Eligibility



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Special Education Means Specially Designed Instruction

- 3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
- To address the **unique needs of the child that result from the child's disability**; and
 - To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

34 CFR § 300.39

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Adverse Effect on Educational Performance

- ▶ Academic performance
- ▶ Communication functioning
- ▶ Social functioning
- ▶ Pragmatic language
- ▶ Organizational skills
- ▶ Group work skills
- ▶ Problem solving skills
- ▶ Emotion regulation
- ▶ Hygiene
- ▶ Behavior
- ▶ Attention challenges
- ▶ Daily living skills/adaptive behavior

List of some areas of educational performance impacted by disabilities

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Adverse Effect: Communication

Examples:

Has difficulty asking for help

Makes irrelevant comments

Has difficulty starting, joining, and/or ending a conversation



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Relationship?

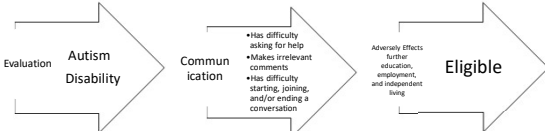
Asking for help
Irrelevant comments
Conversation

Further Education
Employment
Independent Living

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Two Tiers to Eligibility

I + **II** = **E**
Disability + Adverse Effect = Eligibility



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Adverse Effect: Group Work Skills

Examples:

Tends to be less involved in group activities than most of his or her peers

Has difficulty maintaining personal space, physically intrudes on others



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Adverse Effect: Problem-solving skills

Examples:

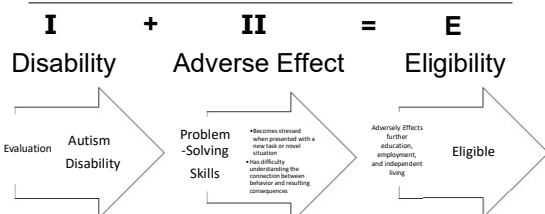
Becomes stressed when presented with a new task or novel situation

Has difficulty understanding the connection between behavior and resulting consequences



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Two Tiers to Eligibility



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Tier Two – Adverse Impact

Adverse Effect on Educational Performance


Place a check next to any area of educational need experienced by the student that may be related to the student's ASD.

✓	AFD	Areas of Educational Performance
		Academic performance
		Communication functioning
		Social functioning
		Pragmatic (social) language
		Organizational skills
		Group work skills
		Problem solving skills
		Emotion regulation
		Hygiene
		Behavior regulation
		Attention skills
		Daily living skills/adaptive behavior

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DSM-5 ASD Specifiers

1. With or without intellectual impairment
2. With or without language impairment
3. Associated with known medical or genetic condition
4. Associated with another neurodevelopmental, mental, or behavioral disorder
5. **With catatonia**

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DSM-5 Catatonia Associated with Another Mental Disorder (Catatonia Specifier)

1. Stupor	8. Stereotypy
2. Catalepsy	9. Agitation, not influenced by external stimuli
3. Waxy flexibility	
4. Mutism	10. Grimacing
5. Negativism	11. Echolalia
6. Posturing	12. Echopraxia
7. Mannerism	

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**12 to 18 Percent
of adolescents and
adults with ASD
have catatonia**

(Wing and Shah, 2000, Billstedt et al., 2005, and Ghaziuddin et al, 2012)

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Onset

- Often between 10 and 19 years
- Often gradual

(Wing and Shah, 2000)

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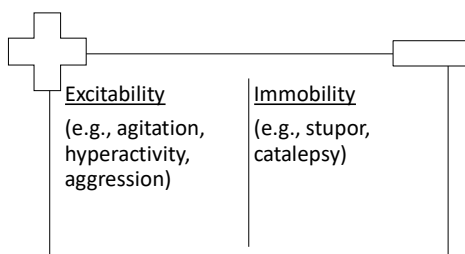


DSM-5

"The **seemingly opposing clinical features** and **variable manifestations** of the diagnosis contribute to a **lack of awareness** and **decreased recognition** of catatonia" (p.119).

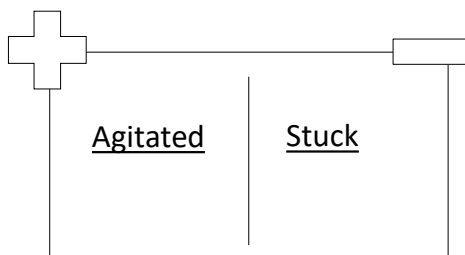
58

Symptoms of catatonia
manifest in two "opposing" ways:



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Symptoms of catatonia
manifest in two "opposing" ways:



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Catatonia & ASD

- The effects on movement are **NOT under voluntary control**.
- The person is **NOT** being **deliberately** manipulative, aggressive, stubborn, willful, obstructive, or lazy.

Shah & Wing, 2006, p.255

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Ambitendency



Tendency to act in opposite ways or directions:

- The presence of opposing behavioral drives
- Contrary behavior, does exact opposite of instruction

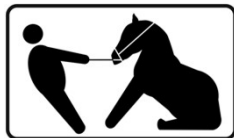
(My brain says, "Cooperate" but my body says, "No.")

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Negativism

Motiveless resistance to instructions or attempts to move

- Unplanned
- Without purpose



Bush-Francis Catatonia Rating Scale

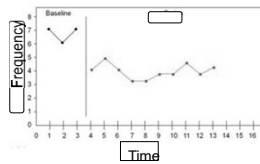
63

Alternation

Alternates suddenly from being very still and quiet to excessive motor activity or agitation (e.g., after seeming "frozen" or staring off suddenly leaps up and hits someone or begins to jump; after long period of being quiet, suddenly talks non-stop and then returns to not talking)

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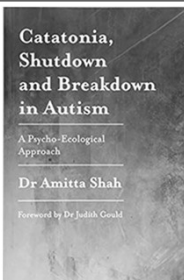
Departure from baseline



- Speech
- Rituals
- Eating Habits
- Repetitive movement
- Staring
- Skills Regression

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Dr. Amitta Shah



<https://vimeo.com/214150845>



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