



# CHAIRPERSON'S MESSAGE

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CHAIRPERSON, 2011 – 2012

## **Children Who Require More**

Divorce affects over one million children each year<sup>1</sup>. 40% of divorce cases involve children under the age of 16. It is estimated that 31% of children under the age of 18, or 20 million children, have "special needs" and 30% of those children have two or more special health needs<sup>2</sup>. Some research has indicated that divorce rates among families with a special needs child are between 85% and 90%<sup>3</sup>. Parents of special needs children are at a greater risk for depression and physical health problems<sup>4</sup>. Every year 1 out of 35 children is diagnosed with Autism. Boys are four times more likely to have Autism than girls and many of the symptoms appear before age 3. As a result, the odds are very high that, as a family law attorney, you will have a client who will come into your office and use various acronyms such as: ASD, PDD, NOS, AS, ADHD, ODD, CD, SID, LD, IEP, ABA, GF/CF, and GAF, just to name a few.

The purpose of this article is to provide the family law attorney with an explanation of the acronyms and a summary of the conditions on the Autism Spectrum Disorder and other non-spectrum conditions which impact children, their siblings, parents and other extended family members during a divorce and post-judgment proceedings. These conditions can have a significant impact with respect to custody and parenting time disputes. Therefore, every family law attorney should be aware of the meaning of the acronyms, treatment options and the conditions. As attorneys, we must explain conditions and events to others on a regular basis. It is therefore difficult to explain what we do not know or understand ourselves. This article is an attempt to educate the family law attorney so that you may understand the Spectrum and related conditions. This article will also address legal considerations which the family law attorney and/or court should consider if you are representing a client with a child or children who require more.

## **COMMON ACRONYMS:**

**ASD** - AUTISM SPECTRUM DISORDER

**PDD** - PERVASIVE DEVELOPMENTAL DISORDER

**NOS** - NOT OTHERWISE SPECIFIED

**AS** - ASPERGER SYNDROME

**ADHD** - ATTENTION DEFICIT HYPERACTIVITY DISORDER

**ODD** - OPPOSITIONAL DEFIANT DISORDER

**CD** - CONDUCT DISORDER

**SID** - SENSORY INTEGRATION DYSFUNCTION

**LD** - LEARNING DISABLED

**IEP** - INDIVIDUAL EDUCATION PLAN

**ABA** - APPLIED BEHAVIOR ANALYSIS

**GF/CF** - GLUTEN FREE CASEIN FREE

**GAF** - GLOBAL ASSESSMENT of FUNCTIONING

Autism comes from the Greek word meaning self. The term is used to describe self isolation. The **Autism Spectrum Disorder (ASD)** is a spectrum of conditions which involve communication, behavioral, social difficulties, restricted interests and repetitive behavior. The term Spectrum is used because not one size fits every child, some children have a combination of symptoms, and each child has different levels of severity. No two children on the Spectrum are alike, nor



can they be treated alike. Just because two children are on the Spectrum does not mean that they will act alike or require the same treatment. Children on the Spectrum often appear as normal looking children. The Spectrum generally includes: (1) Classic Autism, (2) Asperger's Syndrome, and (3) Pervasive Development Disorders (PDD).

There is no known cure for the Spectrum conditions and treatment options are limited and can be costly for any family. Treatment generally consists of therapy, behavior modification plans, medications and diet restrictions. What works for one child might not work for another child, and what works for the child now might not work later for that same child. Symptoms may include some combination of the following: (1) difficulty relating to people; (2) repetitive body movements such as rocking, hair twirling, nail biting and hand clapping; (3) little interest in others; (4) difficulty making and keeping friends; (5) difficulty understanding social norms; (6) limited attachment to others; (7) lack of eye contact; (8) sensory difficulties to light, noise, textures and food; (9) delayed language development; (10) difficulty getting along with authority and other children; (11) difficulty understanding slang and humor; (12) chanting or singing the same songs or words over and over; (13) ongoing tantrums; (14) difficulty with motor skills; (15) acting inappropriately; (16) lack of empathy; (17) inability to understand social reciprocity; (18) sleep disturbances; (19) bed wetting; (20) difficulty with normal hygiene; and (21) aggressiveness/impulsive actions. According to the **DSM**, (Diagnostic and Statistical Manual of Mental Disorders) for a diagnosis of Autism to be made, repetitive behavior, social impairment and verbal/non-verbal impairments must be present.

Other co-morbid conditions of children on the ASD Spectrum also may include ADHD, ODD, LD, CD, depression, bipolar and anxiety. Many of the symptoms of these conditions are the same as those on the Spectrum, therefore children often have multiple diagnoses, some on and some not on the Spectrum. Several authors believe that there is little difference between children with ADHD and a child on the Spectrum. One such author, Diane Kennedy, who authored *The ADHD Autism Connection*, suggests that the two conditions, Autism and ADHD, are very similar in symptoms and treatment. She indicates that common symptoms between the two include impulsive behaviors, difficulty with motor skills and emotional issues.

**Pervasive Development Disorder (PDD)** is a diagnosis that relates to the delays in the development of basic functions. **Not Otherwise Specified (NOS)** is used when the individual diagnosing the child determines that the child has certain characteristics of a group of disorders but is unable to identify the particular disorder due to lack of information or the age of the child. **Asperger Syndrome (AS)** is named after Hans Asperger who studied children with non-verbal communication skills. Children with Asperger Syndrome have difficulty with social interaction, and understanding

social norms that affect their normal functioning. **Anxiety Disorder (AD)** is a diagnosis that relates to abnormal fears and phobias. Children with AD may also have symptoms of depression. **Attention Deficit Hyperactivity Disorder (ADHD)** is a diagnosis that relates to an inability to focus or concentrate along with hyperactivity. ADHD is said to be one of the most diagnosed and studied conditions affecting children. **Oppositional Defiant Disorder (ODD)** is a diagnosis that relates to a pattern of disobedient and defiant behavior which is beyond normal development. **Conduct Disorder (CD)** is a diagnosis that relates to persistent inappropriate behavior patterns. **Sensory Integration Dysfunction (SID)** is used to describe a diagnosis if the child has difficulty with any of the five senses such as taste, vision, auditory, sight and touch. Children with this disorder often have an aversion to clothing tags, lines on socks, textures on their skin and even difficulty with food textures. **Learning Disabled (LD)** is a diagnosis that relates to a child's inability to learn in a normal manner. **Individual Educational Plan (IEP)** is an educational plan that is mandated by the **Individuals with Disability Act (IDEA)**. The plan is to assist with the education of children who have a disability (physical, emotional and/or psychological). **Applied Behavior Analysis (ABA)** is a program utilized to correct behavior patterns to improve social behavior. The program is commonly used for children on the Autism Spectrum. The earlier the program is started the better, although starting it at any time is better than never starting the program. **Gluten Free/Casein Free (GF/CF)** refers to diet restrictions for many children on the Autism Spectrum. A very large percentage of children on the Spectrum have an allergy to Gluten (found in wheat) and Casein (a protein found in dairy). **Global Assessment of Functioning (GAF)** is a numeric scale used by the mental health professionals to rate the general functioning of children. The scale for children is different than the scale for adults, so make sure that you are using the correct scale.

### THERAPY OPTIONS:

Although standard counseling is the typical therapy, providers and parents often consider and are also successful with Art Therapy, Music Therapy, Riding Therapy and/or Play Therapy. These therapies are often used in connection with medication and typical counseling.

### LEGAL CONSIDERATIONS:

1. Ask about the needs of the children within your intake questionnaire;
2. Obtain the specific details of the special needs during the first interview;
3. Request a copy of all assessments, treatment plans and history of medications;
4. Obtain a release so that you can speak with the doctors and providers directly;

5. Request a list of all daycare providers;
6. Request a copy of the IEP and all school records;
7. Obtain a list of all unreimbursed medical including counseling costs;
8. Request direct payment of unreimbursed expenses rather than through the FOC so that one parent does not carry the load;
9. Consider a deviation claim for child support to cover the extra expenses;
10. Determine if both parents understand the diagnosis and support the treatment plan. If not, consider a motion to limit parenting time; and
11. If the parents are in a high conflict situation or if they can not agree on the treatment plan, consider a motion for sole legal custody.

The Special Needs Child and Divorce - ABA Publication  
 BRAINS - Behavior Resources and Institute for Neuropsychological Services  
 Center for Children and Families  
 Attention Deficit Disorder Association  
 National Resource Center on ADHD

**RESOURCES:**

University of Michigan Autism and Communication  
 Autism Society of Michigan  
 Autism Speaks  
 Autism Web  
 DSM - American Psychiatric Association  
 Journal of Autism and Developmental Disorders

**ENDNOTES:**

<sup>1</sup> Margaret S. Price, The Special Needs Child and Divorce Introduction, ABA Publishing (2009) citing: Leslie, L., Rappo, P., Abelson, H., Jenkins, R., Sewall, S., & Chesney, R., et al. (2000). Final report of the FOPE II Pediatric Generalists of the Future Workgroup. *Pediatrics*, 106(5 Supp), 1199-1223.

<sup>2</sup> Margaret S. Price, The Special Needs Child and Divorce Page 2, ABA Publishing (2009) citing: Sneed, R., May, W., & Stencel, C. (2000). Training of pediatricians in care of physical disabilities in children with special health needs: Results of a two-state survey of practicing pediatricians and national resident training programs. *Pediatrics*, 105(3), 554-561.

<sup>3</sup> Margaret S. Price, The Special Needs Child and Divorce Page 1, ABA Publishing (2009) citing: Kraus, M. (2005). Planning is important even when life doesn't go the way we plan. *Family Court Review*, 42(4), 607-611.

<sup>4</sup> Journal of Health and Social Behavior.

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