

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

Generally, any student identified as a student with a disability pursuant to the Individuals with Disabilities Education Act, 20 USC 1400-1482, is subject to the same disciplinary measures applicable to all students for violations of the code of conduct, except when the student's behavior is determined to be a manifestation of his/her disability.

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

However, when the behavior of a student with a disability impedes ~~his/her~~ **their** learning or the learning of others, the student's individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior. (Education Code 56521.2; 34 CFR 300.324)

If, pursuant to a manifestation determination conducted as specified in 34 CFR 300.530, the student's behavior is determined to be a manifestation of ~~his/her~~ **their** disability, the IEP team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the student. If a BIP is already in place for the student, the IEP team shall review and modify the BIP to address the student's behavior. (Education Code 56520; 34 CFR 300.324, 300.530)

In addition, when the disciplinary removal of a student with a disability will result in a change in the student's placement as specified in 34 CFR 300.530, the student shall receive an FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur. (34 CFR 300.530)

Functional Behavioral Assessment (FBA)

In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.

Before any FBA is conducted, the Superintendent of designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain the parent/guardian's consent. (Education Code 56321; 34 CFR 300.324)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

If the parent/guardian disagrees with the result of an FBA, ~~his/her~~ **they have** the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in 34 CFR 300.502.

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Behavioral Intervention Plan and Services

When any behavioral intervention, support, or other strategy is to be used by the district, the Superintendent or designee shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment. (Education Code 56520)

When a student for whom a BIP is to be developed is also the responsibility of another agency for residential care or related services, the Superintendent or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner. (Education Code 56520)

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3065.

Emergency Interventions

Emergency interventions may be used only to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student or others and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior. (Education Code 56521.1)

No emergency intervention shall be used for longer than is necessary to contain the behavior **that poses a clear and present danger of serious physical harm to the student or others**. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

~~Emergency interventions shall not involve the use of force exceeding what is reasonable and necessary under the circumstances. In addition, use of locked seclusion or a device, material, or~~

~~objects that simultaneously immobilize all hands and feet shall not be allowed except as allowed by law. (Education Code 56521.1)~~

Emergency interventions shall not include:

(1) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(2) Employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures.

(3) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

~~Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include all of the following information: (Education Code 56521.1)~~

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention, including seclusion and/or a behavioral restraint is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

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1. The name and age of the student **with exceptional needs**
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used **and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.**

- ~~5. A statement of whether the student is currently engaged in a systematic BIP~~
- ~~6. Details of any injuries sustained by the student or others, including staff, as a result of the incident~~

5. Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

If the behavior emergency report is for a student who does not have a BIP, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing the interim BIP. (Education Code 56521.1)

If the behavior emergency report is for a student who has a BIP, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (Education Code 56521.1)

Prohibited Interventions

The district prohibits the use of corporal punishment as defined in Education Code 49001 as an intervention. **Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion and behavioral restraint of students shall not be used in any form as a means of coercion, discipline, convenience, or retaliation (Education Code 49005.8)** ~~In addition, the district prohibits all of the following: (Education Code 56521.2)~~

The district or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

1. Any intervention designed ~~to~~, or likely to cause physical pain, including, but not limited to, electric shock
2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances ~~near the student's face~~ **in proximity to the face of the individual**
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities
4. Any intervention that is designed to subject, used to subject, or likely to subject the ~~student~~ **individual** to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma

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5. Any restrictive intervention that ~~uses~~ **employ** a device, material, or objects which simultaneously immobilize all **four extremities** ~~hands and feet~~, including the procedure known as prone containment. ~~except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention~~
6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses
9. A physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or placed his or her body weight against the pupil's torso or back.
10. A behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat or other item to cover a pupil's face.
11. Placing a pupil in a facedown position with the pupil's hands held or restrained.
12. Use of seclusion or a behavioral interventions for the purpose of coercion, discipline, convenience or retaliation.
13. Administration of a drug that is not a standard treatment for the student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement.

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5

3065 Staff qualifications - related services

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

Behavior Analyst Certification Board: <http://www.calaba.org/bacb.shtm>

U.S. Department of Education, Office of Special Education Programs:

<http://www2.ed.gov/about/offices/list/osep/osep>

Regulation

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LOS GATOS UNION SCHOOL DISTRICT

Los Gatos, California