

~~Behavioral Interventions For Special Education Students~~

~~A special education student's behavior shall be subject to the disciplinary measures applicable to all students for such infractions unless it is a serious behavior problem as defined below.~~

~~(cf. 5131—Conduct)
(cf. 5144—Discipline)~~

~~More serious behavioral problems shall be addressed through the systematic use of behavioral and emergency interventions as provided below.~~

Definitions

~~Serious behavioral problems are behaviors which are self-injurious, assaultive or cause property damage, and other severe behavior problems that are pervasive and maladaptive for which instructional/behavioral approaches specified in the student's individualized education program (IEP) are found to be ineffective. (5 CCR 3001)~~

~~Behavioral intervention is a systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. Behavioral interventions are designed to provide the individual greater access to a variety of community settings, social contacts and public events and ensure the individual's right to placement in the least restrictive environment, pursuant to the student's IEP. The use of behavioral interventions shall not cause pain or trauma, shall respect the individual's human dignity and personal privacy, and shall assure his/her physical freedom, social interaction and individual choice. (5 CCR 3001)~~

~~Behavior intervention plan is a written document which is developed when the student exhibits a serious behavior problem that significantly interferes with the implementation of the student's IEP.~~

~~Behavioral intervention case manager is a designated certificated school/district/county staff member or other qualified personnel contracted by the district or county office, and trained in behavior analysis with emphasis on positive behavioral interventions. (5 CCR 3001)~~

~~Behavioral emergency is the demonstration of a serious behavior problem which has not previously been observed and for which a behavioral intervention plan has not been developed, or for which a previously designed behavioral intervention is not effective. (5 CCR 3001)~~

Behavioral Interventions For Special Education Students (continued)

Functional Analysis Assessment

When a special education student's serious behavioral problem significantly interferes with implementing the goals and objectives of his/her IEP, the student's IEP team shall determine whether the instructional/behavioral approaches specified in the student's IEP have proven ineffective. If the IEP team finds that these approaches have been ineffective, a functional analysis assessment shall be conducted. (5 CCR 3052)

(cf. 6159—Individualized Education Program)

Before a functional analysis assessment begins, parents/guardians shall be notified and consent obtained pursuant to Education Code 56321. No such assessment shall preclude a parent/guardian from requesting a functional analysis assessment on the basis of language and speech disorders or specific learning disabilities. (5 CCR 3052)

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

The functional analysis assessment shall be conducted by, or be under the supervision of, a person with documented training in behavior analysis with an emphasis on positive behavioral interventions. This staff shall: (5 CCR 3052)

1. Observe the targeted inappropriate behavior, its frequency, duration and intensity
2. Observe events immediately preceding the behavior
3. Observe the consequences of the behavior to determine the purpose it serves for the student
4. Analyze the environment in which the behavior most frequently occurs
5. Analyze records for medical and health factors which may influence behavior
6. Review the history of the behavior, including the effectiveness of interventions used in the past

The parent/guardian shall receive a complete written report of the assessment. The report shall include: (5 CCR 3052)

1. A description of the nature and severity of the targeted behavior(s) in objective and measurable terms

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2. — A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the behavior and a functional analysis of the behavior across all appropriate settings in which it occurs
3. — A description of the rate of alternative behaviors, their antecedents and consequences
4. — A proposed behavioral intervention plan for consideration by the IEP team.

Behavioral Intervention Plan

Within 10 business days after removing a student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement, the district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, Board policy and administrative regulation.

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

Based on the functional assessment, the IEP team shall meet to determine whether a behavioral intervention plan is needed. If such a plan is needed, the IEP team shall be expanded to include a behavioral intervention case manager, qualified staff knowledgeable of the student's health needs, and others with expertise as deemed necessary by the parent/guardian, district or Special Education Local Plan Area (SELPA). This team shall develop a written behavioral intervention plan which includes: (5 CCR 3001)

1. — A summary of relevant and determinative information gathered from the functional analysis assessment
2. — An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s)
3. — The student's goals and objectives specific to the behavioral intervention plan
4. — A detailed description of interventions to be used and the circumstances for their use
5. — Specific schedules for recording the frequency of intervention use and the frequency of the targeted and replacement behaviors, including specific criteria for discontinuing an intervention for lack of effectiveness or replacing it with a specified and identified alternative
6. — Criteria by which the procedure will be faded or phased out, or less intense/restrictive intervention schedules or techniques that will be used

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~~7. — Those behavioral interventions which will be used in the home, residential facility, work site or other noneducational settings~~

~~8. — Specific dates when the IEP team will periodically review the efficacy of the program~~

~~9. — The frequency of the consultation to be provided by the behavioral intervention case manager to the staff and parents/guardians who are responsible for implementing the plan~~

~~Based on the results of the functional analysis assessment, interventions specified in the plan may include: (5 CCR 3052)~~

~~1. — Altering the identified antecedent event to prevent the occurrence of the behavior~~

~~2. — Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior~~

~~3. — Teaching the student adaptive behaviors which ameliorate negative conditions that promote the display of inappropriate behaviors~~

~~4. — Manipulating the consequences for the display of inappropriate behaviors and alternative, acceptable behaviors, so that the alternative behaviors more effectively produce desired outcomes~~

~~Acceptable responses to targeted behavior may include, but are not limited to, one or more of the following: (5 CCR 3052)~~

~~1. — The behavior is ignored, but not the student.~~

~~2. — The student is verbally or verbally and physically redirected to an activity.~~

~~3. — The student is provided with feedback.~~

~~4. — The message of the behavior is acknowledged.~~

~~5. — A brief physical prompt is provided to interrupt or prevent aggression, self-abuse or property destruction.~~

~~The behavioral intervention plan shall become a part of the student's IEP and shall be sufficiently detailed so as to direct the plan's implementation. (5 CCR 3052)~~

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~~A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in noneducational settings. (5 CCR 3001)~~

~~At intervals scheduled by the IEP team, the behavioral intervention case manager, parent/guardian and others as appropriate shall evaluate the effectiveness of the behavioral intervention plan in accordance with law. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team. (5 CCR 3052)~~

~~If the IEP team determines that changes in the behavioral intervention plan are necessary, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, propose changes to the plan. (5 CCR 3052)~~

~~The parent/guardian and the behavioral intervention case manager or qualified designee may make minor modifications without an IEP team meeting. The parent/guardian shall be notified of the need for modification and shall be able to review the existing program evaluation data prior to implementing the modification. Parents/guardians shall be informed of their right to question any modification to the plan through the IEP procedures. (5 CCR 3052)~~

~~The IEP team also may include in the plan contingency schedules for altering specified procedures, their frequency or their duration, without reconvening the IEP team. (5 CCR 3052)~~

Emergency Interventions

~~Emergency interventions not specified in a student's behavioral intervention plan shall be used only when necessary to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the student or others and which 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 systematic behavioral intervention plans. (5 CCR 3052)~~

~~Only emergency interventions approved by the SELPA may be used. No emergency intervention shall be used for longer than is necessary to contain the behavior. Upon prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (5 CCR 3052)~~

~~Parents/guardians 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: (5 CCR 3052)~~

~~Behavioral Interventions For Special Education Students~~ (continued)

- ~~1. The name and age of the student~~
- ~~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~~
- ~~5. A statement of whether the student is currently engaged in a systematic behavioral intervention plan~~
- ~~6. Details of any injuries sustained by students or others, including staff, as a result of the incident~~

~~If the behavior emergency report is for a student who does not have a behavioral intervention plan, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional analysis assessment, and determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting an assessment and/or not developing an interim plan. (5 CCR 3052)~~

~~If the behavior emergency report is for a student who has a behavioral intervention plan, 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. (5 CCR 3052)~~

Prohibited Interventions

~~The district prohibits any use of the following: (5 CCR 3052)~~

- ~~1. Any intervention designed or likely to cause physical pain~~
- ~~2. Releasing noxious, toxic or otherwise unpleasant sprays, mists or substances near the student's face~~
- ~~3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort or access to the bathroom~~
- ~~4. Any intervention that subjects the student to verbal abuse, ridicule, humiliation or excessive emotional trauma~~

~~Behavioral Interventions For Special Education Students (continued)~~

- ~~5.— Use of any material or objects which simultaneously immobilize all hands and feet, 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 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.— Force exceeding what is reasonable and necessary under the circumstances~~

~~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~~

~~56520-56524 Behavioral Interventions~~

~~CODE OF REGULATIONS, TITLE 5~~

~~3001 Definitions~~

~~3052 Designated positive behavioral interventions~~

~~UNITED STATES CODE, TITLE 20~~

~~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, page 46539-46845~~

Regulation

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SAN JOSE UNIFIED SCHOOL DISTRICT

San Jose, California

Behavioral Interventions For Students with Disabilities

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 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 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

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 or 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. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

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

Behavioral Interventions For Students with Disabilities (continued)

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in 34 CFR 300.502.

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)

Emergency Interventions

Emergency interventions may be used only to control unpredictable or 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. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of site administration, appropriate staff, 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 used except as allowed by law. (Education Code 56521.1)

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)

- 1. The name and age of the student**

Behavioral Interventions For Students with Disabilities (continued)

- 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**
- 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**

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. In addition, the district prohibits all of the following: (Education Code 56521.2)

- 1. Any intervention designed 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**
- 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 to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma**

Behavioral Interventions For Students with Disabilities (continued)

- 5. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room**
- 6. Any intervention that precludes adequate supervision of the student**
- 7. Any intervention that deprives the student of one or more of his/her senses**

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:

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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/osers/osep>