

SACRAMENTO COUNTY SELPA POSITIVE BEHAVIORAL INTERVENTION IMPLEMENTATION GUIDELINES

When a student with an Individualized Education Program (“IEP”) exhibits a behavior problem that impedes the child’s learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, including positive behavioral interventions, to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(i), (b); Ed. Code § 56341.1 (b)(1)).

A Local Education Agency (“LEA”) *may* employ a Board Certified Behavior Analyst (“BCBA”) to conduct behavior assessments and provide behavioral intervention services, but the law does not require that these services be provided by a BCBA. (Ed. Code § 56525).

Note: With the Repeal of the Hughes Bill, (Assembly Bill 86, effective July 1, 2013 (“AB 86”)) the law does not contain a specific definition of “behavioral intervention” and does not impose any specific requirements for how to conduct or implement a behavior assessment or behavior intervention plan. LEAs are no longer required to conduct a Functional Analysis Assessment (“FAA”) for students with serious behavioral problems. (Ed. Code § 56523).

Procedures for Disciplinary Matters

If the LEA, the parent, and relevant members of the IEP Team make the determination that a student’s conduct was a manifestation of the child’s disability, the IEP team must:

1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
3. Unless the student is removed to an interim alternative educational setting due to a “special circumstance” pursuant to 34 CFR 300.530 (g), return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan. (34 CFR 300.530).

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 individual with exceptional needs, 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 systematic behavioral intervention plans that is designed to change,

replace, modify, or eliminate a targeted behavior. No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require staff to seek assistance of the schoolsite administrator or law enforcement agency, as applicable to the situation. (Ed. Code § 56521.1 (a) through (c)).

Only emergency interventions approved by the Sacramento County SELPA may be used. No emergency intervention shall be used for longer than is necessary to contain the behavior.

The following emergency interventions, included in “management of assaultive behavior” training, are approved by Sacramento County SELPA for use by **Proact trained staff only** and may only be used as a *last resort when a person is a danger to self or others*:

1. Proact Behavior Based Safety Techniques
2. Nonviolent Physical Crisis Intervention and Team Intervention:
 - a. “children’s control position” for students who are considerably smaller than the staff person
 - b. “team control position” utilizing at least two team members
 - c. “transport position” utilizing at least two team members
 - d. “interim control position”

Parents/guardians/residential care provider, if appropriate, 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 appropriate administrator for review. This report shall include (Ed. Code § 56521.1 (e)):

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 appropriate administrator shall, within two days, schedule an IEP team meeting to

review the emergency report, determine the necessity for a functional behavioral assessment, and determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment and/or not developing an interim plan. (Ed. Code § 56521.1 (g)).

If the behavior emergency report is for a student who has a positive 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 behavioral intervention plan needs to be modified. (Ed. Code § 56521.1 (h)).

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator. (Ed. Code § 56521.1 (f)).

Prohibited Interventions

The Sacramento County SELPA prohibits any use of the following (Ed. Code § 56521.2):

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
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

Terminology: BIP and BSP

The IDEA uses the term Behavior Intervention Plan (“BIP”) to refer to a less intensive behavior plan developed by the IEP team. Previously, the Hughes Bill (repealed by AB 86) used the term "BIP" to refer to a more intensive behavior plan required whenever an FAA is performed. California also had previously used the term Behavior Support Plan (“BSP”) to distinguish between the less intensive plan required by the IDEA and the more-intensive “BIP” required by the Hughes Bill. Now, with the repeal of the Hughes Bill by AB 86 it is recommended that Charter LEAs use only the term BIP for all types of behavior plans. (Ed. Code § 56523).

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment
56321 Notice of parental rights; consent of parents
56341.1 Individualized Education Plans
56500-56508 Procedural safeguards, including due process rights
56521.1-56521.2 Emergency Interventions
56523 Behavioral Interventions
56525 Board Certified Behavior Analyst

CODE OF REGULATIONS, TITLE 5

3001 Definitions

UNITED STATES CODE, TITLE 20

1412 State eligibility
1414 Individualized Education Programs
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