

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.

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

When a child's behavior impedes the child's learning or that of others, the IEP team must consider strategies and supports, 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, subd. (b)(1).)

A Charter 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.)

Behavioral Intervention Plan

Note: As amended in Federal Register Vol. 64, No. 48, 34 CFR 300.530 requires that a functional behavioral assessment and behavioral intervention plan be developed no later than 10 business days after a student is suspended for more than 10 school days in a school year or after a change of placement occurs.

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 Charter LEA shall implement a behavioral intervention plan in accordance with 34 CFR 300.530, Board policy and administrative regulation.

Note re 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 Previously, the Hughes Bill (repealed by AB 86) used the term "BIP" to refer to a more intensive behavior plan required whenever an FAA is performed.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.)

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 school site administrator or law enforcement agency, as applicable to the situation. (Ed. Code, § 56521.1 (a) through (c).)

Only emergency interventions approved by the Sonoma County Charter 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 the Sonoma County Charter SELPA for use by **CPI (Crisis Prevention Institute) trained staff only** and may only be used as a ***last resort when a person is a danger to self or others:***

- a.) CPI’s Personal Safety Techniques
- b.) Nonviolent Physical Crisis Intervention and Team Intervention:
 - ✓ “children’s control position” for students who are considerably smaller than the staff person
 - ✓ “team control position” utilizing at least two team members
 - ✓ “transport position” utilizing at least two team members
 - ✓ “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 Charter CEO or designee 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 Charter CEO or designee 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).)

Sonoma

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

Prohibited Interventions

The Charter LEA 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

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