



Behavioral Interventions for Special Education Students – SELPA Policy 23/AR 23

Issue

SELPA Policy 23 and Administrative Regulation 23 addressing behavioral interventions for special education students need to be updated to align with Ed Code. We have included both the redline version of Policy 23 and AR 23 highlighting the suggested revisions, along with the proposed Policy 23 and AR 23 incorporating the suggested revisions. The attachments are as follows:

- 4b.1 – Copy of SELPA Board Policy 23 with suggested revisions highlighted in red.
- 4b.2 – Copy of recommended SELPA Board Policy 23.
- 4b.3 – Copy of SELPA Administrative Regulation 23 with suggested revisions highlighted in red.
- 4b.4 – Copy of recommended Administrative Regulation 23.

Recommendation

The SELPA recommends that SELPA Superintendents' Council approve the revision of El Dorado County SELPA Policy 23 and Administrative Regulation 23, Behavioral Interventions for Special Education Students.

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

A special education student's minor behavioral problems shall be subject to the disciplinary measures applicable to all students for such infractions.

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 consistent with the law and SELPA procedures. (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).)

~~When a special education student's serious behavioral problem significantly interferes with implementing the goals and objectives of his/her individualized education program, a functional analysis assessment shall be conducted with parental consent and a written behavioral intervention plan may be developed for the student in accordance with law and SELPA procedures.~~

The LEA Superintendent or designee shall ensure that staff is informed of the El Dorado County SELPA's policy and regulations governing the systematic use of behavioral and emergency interventions.

Legal Reference:

EDUCATION CODE

- 49001 Prohibition of corporal punishment
- 56321 Notice of parental rights; consent of parents
- 56500-56507 Procedural safeguards, including due process rights
- 56520-56524 Behavioral Interventions
- 56341.1

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- 3052 Designated positive behavioral interventions

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

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The LEA Superintendent or designee shall ensure that staff is informed of the El Dorado County SELPA's policy and regulations governing the systematic use of behavioral and emergency interventions.

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Revision Pending SELPA Superintendents' Council Approval 2-7-19
Revision Approved by Executive Committee 1-24-19
September, 2008

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS INDIVIDUALS WITH EXCEPTIONAL NEEDS

~~Behavior of an individual with exceptional needs~~A special education student's behavior shall be subject to the disciplinary measures applicable to all students for such infractions unless the behavior is determined to be a manifestation of the student's disability. ~~it is a serious behavior problem as defined below.~~

~~More serious b~~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).)

Member districts may employ a Board-Certified 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.)

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 (BIP)** 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 (BICM)** is a designated certificated district staff member or other qualified personnel contracted by the district, and trained in behavior analysis with emphasis on positive behavioral interventions. (5 CCR 3001)~~

~~Note: 5 CCR 3001 specifies that the behavioral intervention case manager is not intended as a new staffing requirement and does not create new credentialing or degree requirements. Duties of this position may be performed by any appropriately trained, certificated staff member.~~

~~**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)~~

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)~~

~~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)~~

~~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~~

~~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

~~Note: As amended in Federal Register Vol. 64, No. 48, 34 CFR 300.520 requires that A a functional behavioral assessment and behavioral intervention plan shall 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. (34 CFR § 300.530; see SELPA Policy 16, and AR 16.)~~

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 member district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, Board SELPA policy (BP/AR 16), and administrative regulations. (BP/AR 16).

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 was 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 member districts use only the term BIP for all types of behavior plans. (Ed. Code, § 56523.)

~~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~~
 - ~~7. Those behavioral interventions which will be used in the home, residential facility, work site or other non-educational 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)~~

~~A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in non-educational 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-individual with exceptional needs or others, and which-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 behavioral intervention plan~~s~~. 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)-)
~~(5 CCR 3052)~~

Only emergency interventions approved by the ~~El Dorado County~~ 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) (Ed. Code § 56521.1)~~

The following emergency interventions, included in “Risk Behavior management of assaultive behavior” training, are approved by the El Dorado County SELPA for use by **CPI (Crisis Prevention Institute) trained staff only** and may only be used as a *last resort when a person is an immediate danger to self or others:*

- a.) CPI’s ~~Personal Safety Techniques~~Disengagement Skills
- b.) Nonviolent Physical Crisis Intervention and Team Intervention:
 - ✓ “Standing Position” utilizing one-two team members.
 - ✓ “Seated Position” utilizing two team members
 - ✓ “Team Control Position” utilizing at least two team members
 - ✓ “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 an 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 LEA Superintendent or designee for review. This report shall include: ~~(5 CCR 3052)~~

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

(Ed. Code § 56521.1 (e).)

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

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~~(5 CCR 3052)~~

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

~~Note: 5 CCR 3052 requires the El Dorado County SELPA to collect behavior emergency report data and annually report the number of such reports to the CDE and the Advisory Commission on Special Education.~~

Prohibited Interventions

Each member district of the El Dorado County SELPA 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
- ~~3.~~
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 immobilizes 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

(Ed. Code, § 56521.2.)

Legal Reference:

EDUCATION CODE

- 49001 Prohibition of corporal punishment
- 56321 Notice of parental rights; consent of parents
- 56341.1 Individualized Education Plans Programs
- 56500-56508 Procedural safeguards, including due process rights
- 56520-56525 Behavioral Interventions

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- ~~3052 Designated positive behavioral interventions~~

UNITED STATES CODE, TITLE 20

- 1412 State eligibility
- 1414 Individualized Education Plans 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

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BEHAVIORAL INTERVENTIONS FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS

Behavior of an individual with exceptional needs shall be subject to the disciplinary measures applicable to all students for such infractions unless the behavior is determined to be a manifestation of the student's disability.

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).)

Member districts *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

A functional behavioral assessment and behavioral intervention plan shall 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. (34 CFR § 300.530; see SELPA Policy 16, and AR 16.)

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 member district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, SELPA policy, and administrative regulations. (BP/AR 16)

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 was 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 member districts 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 a systematic behavioral intervention plan 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 SELPA may be used. (Ed. Code § 56521.1) The following emergency interventions, included in “Risk Behavior” training, are approved by the El Dorado County SELPA for use by **CPI (Crisis Prevention Institute) trained staff only** and may only be used as a ***last resort when a person is an immediate danger to self or others:***

- a.) CPI’s Disengagement Skills
- b.) Nonviolent Physical Crisis Intervention and Team Intervention:
 - ✓ “Standing Position” utilizing one-two team members
 - ✓ “Seated Position” utilizing two team members
 - ✓ “Team Control Position” utilizing at least two team members
 - ✓ “Children’s Control Position” for students who are considerably smaller than the staff person

Parents/guardians/residential care provider, if appropriate, shall be notified within one school day whenever an 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 LEA Superintendent or designee for review. This report shall include:

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

(Ed. Code § 56521.1 (e).)

If the behavior emergency report is for a student who does not have a behavioral intervention plan, the LEA Superintendent 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 behavioral plan. When applicable, the IEP team shall document the reasons for not conducting a 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

Each member district of the El Dorado County SELPA prohibits any use of the following:

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 immobilizes 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

(Ed. Code, § 56521.2.)

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UNITED STATES CODE, TITLE 20

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