

**REGULATION 6159.4: Behavioral Interventions for Special Education Students**  
**Comparison Chart**  
 Section: Instruction

**SUMMARY OF UPDATE**

**Summary of Update:** Regulation updated to reflect NEW LAW (AB 86) which, in effect, peals specified state regulations pertaining to behavioral interventions for special education students, deletes the requirement for a “behavioral intervention plan” when a student with a disability exhibits a “serous behavioral problem” that significantly interferes with the implementation of the goals and objectives of his/her individualized education program, and instead requires the district to address any student behavior that impedes the student’s own learning or the learning of other students.

PARA	Section	Sub-Section	February 11, 2002 CURRENT VERSION	December 2013 REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
1			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.	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.	CSBA NOTE: Pursuant to Education Code 56520, as amended by AB 86 (Ch. 48, Statutes of 2013), for students with disabilities who are exhibiting serious behavioral challenges, timely assessments and positive interventions and supports should be developed and implemented in accordance with the federal Individuals with Disabilities Education Act (IDEA) and its implementing regulations (20 USC 1400-1482; 34 CFR 300.1-300.818).  The following optional administrative regulation is based on guidance from the Office of Special Education Programs (OSEP) of the U.S. Department of Education.
2			More serious behavioral problems shall be addressed through the systematic use of behavioral and emergency interventions as provided below.	<b>Delete</b>	
			<b>Definitions</b>	<b>Delete</b>	

1		<p>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.</p>	<p>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.</p>	<p>CSBA NOTE: In efforts to ensure consistency with federal law, Education Code 56523, as amended by AB 86 (Ch. 48, Statutes of 2013), in effect, has repealed 5 CCR 3001 and deleted the requirement for a "behavioral intervention plan" (BIP) when a student with a disability exhibits a "serious behavioral problem" that significantly interferes with the implementation of the goals and objectives of his/her individualized education program. Instead, pursuant to Education Code 56521.2, as added by AB 86, a district is required to address any student behavior that impedes the student's own learning or the learning of other students.</p>
2		<p>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.</p>	<p>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.</p>	

3		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.	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.	
4		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.	Delete	
5		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.	Delete	
		<b>Functional Analysis Assessment</b>	No change	
			Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.	CSBA NOTE: According to OSEP, because a functional behavioral assessment (FBA) is normally conducted to determine whether a student is, or continues to be, a student with a disability and/or the nature and the extent of special education and related services needed by that student, it is an evaluation for the purposes of the IDEA. Thus, an FBA is subject to requirements such as prior notice and parental consent and the sharing of the result of the assessment with the student's parents/guardians. For the required contents and format of the notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

			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.	
			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.	
1		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.	<b>Delete</b>	
2		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.	<b>Delete</b>	
3		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:	<b>Delete</b>	
	1	Observe the targeted inappropriate behavior, its frequency, duration and intensity	<b>Delete</b>	

	2	Observe events immediately preceding the behavior	Delete	
	3	Observe the consequences of the behavior to determine the purpose it serves for the student	Delete	
	4	Analyze the environment in which the behavior most frequently occurs	Delete	
	5	Analyze records for medical and health factors which may influence behavior	Delete	
	6	Review the history of the behavior, including the effectiveness of interventions used in the past	Delete	
4		The parent/guardian shall receive a complete written report of the assessment. The report shall include:	Delete	
	1	A description of the nature and severity of the targeted behavior(s) in objective and measurable terms	Delete	
	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	Delete	
	3	A description of the rate of alternative behaviors, their antecedents and consequences	Delete	
	4	A proposed behavioral intervention plan for consideration by the IEP team	Delete	
		<b><u>Behavioral Intervention Plan</u></b>	<b><u>Behavioral Intervention Plan and Services</u></b>	
			When any behavioral intervention, support, or other strategy is to be used by the district, the	CSBA NOTE: Pursuant to Education Code 56520, as amended by AB 86 (Ch. 48, Statutes

			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.	of 2013), behavioral interventions, supports, and other strategies may be used only in a manner that conforms to the following paragraph.
			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.	CSBA NOTE: Pursuant to Education Code 56520, as amended by AB 86 (Ch. 48, Statutes of 2013), BIPs for students in residential care must be developed and used in the manner specified below.
			Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3051.23.	CSBA NOTE: 5 CCR 3051.23, as added by Register 2014, No. 19, specifies the qualifications of individuals who may provide behavioral intervention services. Education Code 56525 also authorizes anyone recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst to provide such services.
1		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.	<b>Delete</b>	
2		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	<b>Delete</b>	

		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:		
	1	A summary of relevant and determinative information gathered from the functional analysis assessment	Delete	
	2	An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s)	Delete	
	3	The student's goals and objectives specific to the behavioral intervention plan	Delete	
	4	A detailed description of interventions to be used and the circumstances for their use	Delete	
	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	Delete	
	6	Criteria by which the procedure will be faded or phased-out, or less intense/restrictive intervention schedules or techniques that will be used	Delete	
	7	Those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings	Delete	
	8	Specific dates when the IEP team will periodically review the efficacy of the program	Delete	

	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	Delete	
3		Based on the results of the functional analysis assessment, interventions specified in the plan may include:	Delete	
	1	Altering the identified antecedent event to prevent the occurrence of the behavior	Delete	
	2	Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior	Delete	
	3	Teaching the student adaptive behaviors which ameliorate negative conditions that promote the display of inappropriate behaviors	Delete	
	4	Manipulating the consequences for the display of inappropriate behaviors and alternative, acceptable behaviors, so that the alternative behaviors more effectively produce desired outcomes	Delete	
4		Acceptable responses to targeted behavior may include, but are not limited to, one or more of the following:	Delete	
	1	The behavior is ignored, but not the student	Delete	
	2	The student is verbally or verbally and physically redirected to an activity	Delete	
	3	The student is provided with feedback	Delete	
	4	The message of the behavior is acknowledged	Delete	



5		A brief physical prompt is provided to interrupt or prevent aggression, self-abuse or property destruction	Delete	
5		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.	Delete	
6		A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in non-educational settings.	Delete	
7		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.	Delete	
8		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.	Delete	
9		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.	Delete	

10		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.	<b>Delete</b>	
		<b><u>Emergency Interventions</u></b>	<b>No change</b>	
1		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.	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.	
2		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.	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 the principal or law enforcement agency, as applicable to the situation.	
			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.	<b>New paragraph added</b>  CSBA NOTE: Education Code 56521.1, as added by AB 86 (Ch. 48, Statutes of 2013), prohibits the use of the methods specified in the following paragraph even for emergency interventions. For more information on prohibited interventions, see section below titled "Prohibited Interventions."
3		Parents/guardians shall be notified within one school day whenever emergency intervention	Parents/guardians and, if appropriate, residential care providers shall be notified	

		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:	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:	
	1	The name and age of the student	<b>No change</b>	
	2	The setting and location of the incident	<b>No change</b>	
	3	The name of the staff or other persons involved	<b>No change</b>	
	4	A description of the incident and the emergency intervention used	<b>No change</b>	
	5	A statement of whether the student is currently engaged in a systematic behavioral intervention plan	<b>No change</b>	
	6	Details of any injuries sustained by students or others, including staff, as a result of the incident	Details of any injuries sustained by the student or others, including staff, as a result of the incident	
4		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.)	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.	
5		If the behavior emergency report is for a student who has a behavioral intervention	If the behavior emergency report is for a student who has a BIP, any incident involving	

		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.	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.	
		<b><u>Prohibited Interventions</u></b>	<b>No change</b>	
1		The district prohibits any use of the following:	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:	CSBA NOTE: Pursuant to Education Code 56521.2, as added by AB 86 (Ch. 48, Statutes of 2013), a district is prohibited from authorizing, ordering, consenting to, or paying for the following or other similar interventions.
	1	Any intervention designed or likely to cause physical pain	Any intervention designed or likely to cause physical pain, including, but not limited to, electric shock	
	2	Releasing noxious, toxic or otherwise unpleasant sprays, mists or substances near the student's face	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 the bathroom	Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities	
	4	Any intervention that subjects the student to verbal abuse, ridicule, humiliation or excessive emotional trauma	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	
	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	Any restrictive intervention that uses a device, material, or objects which simultaneously immobilize all 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 law to use a locked room	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	<b>No change</b>	
	8	Any intervention that deprives the student of one or more of his/her senses	<b>No change</b>	
	9	Force exceeding what is reasonable and necessary under the circumstances	<b>Delete</b>	