

OPERATING PROCEDURES

SPECIAL FACTORS—BEHAVIOR

Goose Creek CISD

101911

Legal Framework: [Special Factors—Behavior](#)

Category: Admission, Review, and Dismissal Committee

Template update Oct 2016

“Section 300.324(a)(2)(i) follows the specific language in section 614(d)(3)(B)(i) of the Act and focuses on interventions and strategies, not assessments, to address the needs of a child whose behavior impedes the child’s learning or that of others. Therefore, while conducting a functional behavioral assessment (FBA) typically precedes developing positive behavioral intervention strategies, we do not believe it is appropriate to include this language in § 300.324(a)(2)(i).” 71 Fed. Reg. 46683 (August 14, 2006).

“The child’s unique needs are of paramount importance in determining what behavioral interventions and supports or behavioral management strategies are appropriate for a child with a disability and must be included in the child’s [individualized education program] IEP.” [OSEP Letter to Anonymous \(March 17, 2008\)](#).

“The final decision on the provision of special education and related services for any child with a disability rests with the IEP Team, including the child's parents. [Individuals with Disabilities Education Act] IDEA and the final Part B implementing regulations' require that the IEP Team consider, in the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 20 U.S.C. 1414(d)(3)(B)(i) and (C), and 34 CFR §300.324(a)(2)(i). Thus, while the Act requires that an IEP Team consider the use of positive behavioral interventions and supports, and as such, emphasizes and encourages the use of such supports, it does not contain a flat prohibition on the use of aversive behavioral interventions. Whether to allow IEP Teams to consider the use of aversive behavioral interventions is a decision left to each State.” [OSEP Letter to Trader \(October 19, 2006\)](#).

“Under 34 CFR § 300.324(a)(2)(i), the use of positive behavioral interventions and supports must be considered in the case of a child whose behavior impedes his or her learning or that of others. The requirement in 34 CFR § 300.530(f) that a child with a disability receive, as appropriate, an FBA and a [behavior intervention plan] BIP and modifications designed to address the child's behavior now only applies to students whose behavior is a manifestation of their disability as determined by the [local educational agency] LEA, the parent, and the relevant members of the child's IEP Team under 34 CFR § 300.530(e). However, FBAs and BIPs must also be used proactively, if the IEP Team determines that they would be appropriate for the child. The regulations in 34 CFR § 300.530(d) require that school districts provide FBAs and behavior intervention services (and modifications) ‘as appropriate’ to students when the student's disciplinary change in placement would exceed 10 consecutive school days and the student's behavior was not a manifestation of his or her disability. See 34 CFR § 300.530(c) and (d).” [OSERS Questions and Answers on Discipline Procedures \(Revised June 2009\)](#).

“The child's unique needs are the basis for determining what behavioral interventions and supports or behavioral management strategies are appropriate for the child and what interventions, supports, and strategies are included in the child's IEP.” [OSERS Letter to Anonymous \(December 16, 2010\)](#).

“Recent data on short-term disciplinary removals from the current placement strongly suggest that many children with disabilities may not be receiving appropriate behavioral interventions and supports, and other strategies, in their IEP. . . . In light of research about the detrimental impacts of disciplinary removals, including short-term disciplinary removals, [Office of Special

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Education and Rehabilitative Services (OSERS) issued] guidance to clarify that schools, charter schools, and educational programs in juvenile correctional facilities must provide appropriate behavioral supports to children with disabilities who require such supports in order to receive [free appropriate public education] FAPE and placement in the least restrictive environment (LRE). As a practical matter, providing appropriate behavioral supports helps to ensure that children with disabilities are best able to access and benefit from instruction. [OSERS issued] this guidance to clarify that the failure to consider and provide for needed behavioral supports through the IEP process is likely to result in a child not receiving a meaningful educational benefit or FAPE. In addition, a failure to make behavioral supports available throughout a continuum of placements, including in a regular education setting, could result in an inappropriately restrictive placement and constitute a denial of placement in the LRE. While such determinations are necessarily individualized, this guidance is intended to focus attention on the need to consider and include evidence-based behavioral supports in IEPs that, when done with fidelity, often serve as effective alternatives to unnecessary disciplinary removals, increase participation in instruction, and may prevent the need for more restrictive placements." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"Incidents of child misbehavior and classroom disruptions, as well as violations of a code of student conduct, may indicate that the child's IEP needs to include appropriate behavioral supports. This is especially true when a pattern of misbehavior is apparent or can be reasonably anticipated based on the child's present levels of performance and needs. To the extent a child's behavior including its impact and consequences (e.g., violations of a code of student conduct, classroom disruptions, disciplinary removals, and other exclusionary disciplinary measures) impede the child's learning or that of others, the IEP Team must consider when, whether, and what aspects of the child's IEP related to behavior need to be addressed or revised to ensure FAPE. If the child already has behavioral supports, upon repeated incidents of child misbehavior or classroom disruption, the IEP team should meet to consider whether the child's behavioral supports should be changed." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"[A]s part of the development, review and, as appropriate, revision of the IEP, IEP Teams should determine whether behavioral supports should be provided in any of three areas: (1) special education and related services, (2) supplementary aids and services, and (3) program modifications or supports for school personnel. 34 CFR § 300.320(a)(4). IEPs should contain behavioral supports supported by evidence . . ." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"Interventions and supports that could assist a child with a disability to benefit from special education may include instruction and reinforcement of school expectations, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, or social skills instruction. Please see the end of this section for additional tools and resources to assist with the implementation of behavioral supports." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"[Appropriate supplementary aids and services] behavioral supports might include meetings with a behavioral coach, social skills instruction, counselor, or other approaches." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"In addition to the behavioral supports that may be provided directly to children with disabilities, program modifications or supports for school personnel, provided on behalf of the child, may also be necessary to support the child's involvement and progress in the general

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education curriculum, advancement towards attaining the annual goals specified in the IEP, and participation in extracurricular and other nonacademic activities. 34 CFR §§ 300.320(a)(4)(i) and (ii). School personnel may need training, coaching, and tools to appropriately address the behavioral needs of a particular child. Supports for school personnel may be designed, as appropriate, to better implement effective instructional and behavior management strategies and specific behavioral interventions that are included in the child's IEP." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

"[OSERS] remind[s] States, LEAs, and IEP Teams that while 34 CFR § 300.530 explicitly permits school personnel to implement short-term disciplinary removals from the current placement, such removals may indicate a need to review and revise the child's IEP to address his or her behavioral needs. In addition, exclusionary disciplinary measures that do not constitute a removal from the current placement may also indicate the need to review and revise the child's IEP." [OSERS Dear Colleague Letter \(August 1, 2016\)](#).

Application Guidance

- [Texas Behavior Support \(TBS\)](#) (Region 4 ESC)
- [Positive Behavioral Interventions & Supports \(PBIS\)](#) (OSEP Technical Assistance Center)

Through the implementation of the Goose Creek CISD policies and procedures as outlined in the [Legal Framework](#) for the Child-Centered Special Education Process, the Goose Creek CISD ensures that the ARD committee considers the special factor of behavior as required by the IDEA and its accompanying federal regulations, state statutes and regulations.

PERSONS RESPONSIBLE: Coordinator for Assessment, Coordinator for Behavioral Support Services, ARD Committee Members, LSSPs, Behavior Specialists, and BCBA

TIMELINES: Annually at each Annual ARD/Review ARD

MATERIALS: eSped forms to include FBA and BIP

Functional Behavior Assessment (FBA)

If the student is served with special education services and is displaying behavior that is interfering with learning of self or others and does not have a current Behavior IEP/BIP, the following procedures apply:

1. Concerns are brought to the student's case manager.
2. The case manager will:
 - a. Review these procedures with the teacher/administrator bringing the concern
 - b. Explain the data collection process
 - c. Provide and review forms for data collection
 - d. Discuss informal behavior plans or strategies utilized and how to collect data on student response

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- e. Assist the teacher, as needed with the data collection
 - f. Inform the campus diagnostician/ARD Facilitator that there are behavioral concerns and determine what information has been provided to the school staff
3. The case manager will monitor the data collection process for approximately two (2) weeks.
4. If the student's behavior improves without the need for a formal Behavior IEP/Behavior Intervention Plan, no further action is needed. The case manager will upload the documents in the student's eSped record.
5. If through the data collection and informal behavior plan process the student's behavior improves with the implementation of a behavior plan and that plan is needed for the behaviors to be maintained, continue with step numbers 6 & 7 regarding the staffing process.
6. If the behavior does not improve, the case manager will ask the campus diagnostician/ARD Facilitator to schedule a staffing.
7. The staffing must include the campus administrator, teacher, case manager, and LSSP assigned to the campus.
8. At the staffing, the LSSP, BCBA, or Behavior Specialist will take the lead and review all concerns and discuss the process of conducting a Functional Behavior Assessment to support the development of Behavior IEP and Behavior Intervention Plan.
9. The LSSP/BCBA will be responsible for conducting a Functional Behavior Assessment.
10. The campus diagnostician/ARD Facilitator should schedule a REED meeting to determine the need for additional evaluation. A REED meeting is a planning meeting held outside the ARD process to consider the scope of the evaluation. The REED meeting process includes consulting the teachers, parent, and other staff members involved with the student.
11. If the REED meeting determines that additional evaluation is needed, the Notice of evaluation will be given to the parent and consent obtained. *It is recommended that an ARD committee is held to discuss the need to develop additional interventions and supports until the FBA can be completed.*
12. Once the consent is obtained, the LSSP/BCBA will conduct the FBA.
13. Upon completion, the LSSP or BCBA will contact the campus diagnostician/ARD Facilitator to schedule a staffing and ARD to review the new evaluation and present the FBA and draft BIP/Behavior IEP.

If the student is served with special education services and is displaying behavior that is interfering with learning of self or others and does have a current Behavior IEP/BIP, the following procedures apply:

1. Concerns are brought to the student's case manager.

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2. The case manager will:
 - a. Review these procedures with the teacher/administrator bringing the concern;
 - b. Review the current Behavior IEP and BIP and answer any questions regarding the implementation;
 - c. Explain the data collection process;
 - d. Provide and review forms for data collection if the teacher does not have them;
 - e. Assist the teacher as needed with the data collection; and
 - f. Inform the campus diagnostician/ARD Facilitator that there are behavioral concerns and what information has been provided to the school staff.
3. The case manager will monitor the data collection process for approximately two (2) weeks.
4. If the student's behavior improves without the need for changes to the BIP, no further action is needed. The case manager will upload the documents in the student's eSped record.
5. If the behavior does not improve, the case manager will ask the Campus Diagnostician/ARD Facilitator to schedule a staffing.
6. The Campus Diagnostician/ARD Facilitator will schedule a staffing. The staffing must include the campus administrator, teacher, case manager, and LSSP or BCBA assigned to the campus.
7. At the staffing, the LSSP/Behavior Specialist/BCBA will take the lead and review all concerns and documentation.
8. The LSSP/Behavior Specialist/BCBA will review the last FBA conducted, review data and determine if the Behavior IEP and BIP needs to be changed based on the data or if a new FBA should be recommended.
9. If an FBA is not required at this time, proposed changes to the behavior IEP and BIP should be discussed and an ARD meeting should be held to consider proposed changes. Note** If the student does not respond to a new Behavior IEP/BIP within 4 weeks of the ARD accepting the changes, the LSSP/Behavior Specialist/BCBA should be contacted to complete a FBA.