

**CLARIFICATION ON IEP SPECIAL FACTORS CONSIDERATION:
DOES BEHAVIOR IMPEDE LEARNING OF THE STUDENT OR PEERS?
WHEN DO WE NEED BEHAVIOR PLANS AND WHAT TYPE?**

Diana Browning Wright

Many of us in the field have been considering these four big questions:

- 1. What is the role of a behavior support plan in addressing behavior impeding learning?**
- 2. How do behavioral Rtl considerations apply to behavior plan development and special education law?**
- 3. What is the difference between FBA and FAA?**
- 4. Do students in a restrictive setting because of behavior need behavior plans?**

In recent requests for consultations I have received, there appears to be a trend surrounding those four questions and the following four related themes:

- How should we deal with determining “Behavior Impeding Learning” in IEP meetings?
- When should we use a behavior support plan to address behavior?
- Where does a behavior support plan fall in law because I don’t see it in the Ed Code?
- When can I use a BSP vs. a PBIP in California?

Here are my thoughts on these issues.

- I. First, there are three possible responses to the question of whether behavior impedes learning, under the “consideration of special factors” section of an IEP, and three possible related responses (see attached flow chart).**
 - 1. “Yes,” the behavior is impeding learning of the student and/or peers.**
 - a. Therefore, legally we must specify strategies, including positive behavioral interventions, strategies and supports because the behavior is substantially a causative factor in lowering academic and/or social emotional learning.
 - b. A BSP is a formatted document for the specification of all the strategies we need to address behavior that is definitely impeding learning. This includes understanding the function, the environmental changes we need, and the functionally equivalent behaviors we need to teach. It also gives staff guidance on how to respond if the behavior occurs again.
 - c. If “Yes” is determined, a behavior plan should be attached to the IEP as it is a supplementary aid and support to maintain the Least Restrictive Environment and therefore, should be part of the IEP.

2. “No,” the behavior does not impede learning

- a. No specialized instructional “need” is established; therefore standard teaching practices and environmental supports are employed. No specialized instruction in terms of methodology, content or instructional strategies have been determined related to behavior. Therefore, do not describe support strategies you do as a matter of course in the classroom.

3. “Maybe,” it could impede learning if it becomes more severe (i.e., if it occurs more frequently, or more intensively, or lasts for a longer duration)

- a. Therefore, if “Maybe” is our answer, a “need” has been determined and for every “need” we identify, our legal experts tell us we need a corresponding goal in the IEP (or for students with severe disabilities, a goal AND objectives).
- b. Write a goal that is progress monitorable, using all components described in the six sections described in the BSP Desk Reference. This goal is to achieve general positive behaviors, (e.g., turn in work, stay on task, etc.) or for reduction or elimination of problem behavior (e.g., stop hitting, stop getting out of seat, stop running away, stop fighting at recess, etc.). (See: www.pent.ca.gov for the BSP Desk Reference, section nine-goal writing instructional manual). Your goal should include: 1. By when, 2. Who, 3. Will do (or not do) what, 4. At what level of proficiency, 5. Under what conditions, 6. As measured by whom and how.
- c. Under IEP notes, consider describing your discussion as follows:
 - “The IEP team has concluded that John does not yet have ‘behavior impeding his learning or that of peers’, however the team believes some behavior excesses need to be addressed to prevent these behaviors from becoming behaviors that impede learning in the future. Staff will monitor John’s goal to respond to this need as described in the IEP goal section.”
- d. Do NOT describe the strategies you will use if the answer is “Maybe.”
 - Rationale: We do not describe the methodology to address a goal until it rises to the higher level of “impeding learning.” Our IEPs will become overly technical, and obligate specifically determined strategies when unnecessary. Simply differentially reinforcing behavior that you DO want, or reinforcing the absence of the problem behavior is likely to suffice at this stage.
- e. Monitor goals you wrote because of a “maybe” conclusion more frequently than once per year!
 - Goals should be written so that if success is not met in a reasonable amount of time, e.g., 1-3 months, the team will want to reconvene to determine whether the behavior has now risen to the “Yes” level and a BSP is needed.

II. Discussion on the Role of Behavioral Rtl and Behavior Impeding Learning:

1. In the era of Response to Intervention (Rtl) we are becoming more cognizant of the critical role of continuous progress monitoring and assuring fidelity of implementation to achieve standards mastery for all students. Your practices related to academics AND behavior for students with and without disabilities should reflect that perspective. (See: www.lrp.com, Behavioral Rtl: Integrating Academic and Behavioral Supports).
2. The first step in addressing behavior and academics is to assure evidence based practices are present in the classroom (Tier 1) and a mechanism for determining who needs more (Tier 2) is in place.
3. The second step is NOT to develop a behavior plan for any student with a problem behavior. Logic tells us we should review what is happening in Tier 1 and alter the environment if it does not yet support positive behavior, before considering additional measures. If we have evidence that Tier 1 is not being implemented with fidelity, that is where we address the problem.
4. If Tier 1 is in fact adequate, we can then move to “default behavioral interventions” that are evidence based, e.g., Tier II as described in the PENT Forums for 2008 and 2009 (www.pent.ca.gov). These may include: Check-in/Check-out, Mentoring, School Home Notes, Self-Monitoring and Differential Reinforcement among others. No analysis of any type is required, we simply teach what we want, and reinforce and progress monitor to achieve that general positive outcome we are addressing at this stage.
5. If Tier 2 default behavioral interventions are not successful, based on our progress monitoring, we examine the fidelity of our tier 2 intervention first. Are we really implementing as is described in the evidence-base for achieving the desired outcome? If fidelity is present, and the student is a non-responder, the situation calls for Tier 3 interventions. If Tier 2 is being implemented poorly, we adjust that before considering the next tier. For students with IEPs, we have a mandate to consider this non-responsive behavior as a “behavior impeding learning”, and thus a functional view of the behavior and the development of a function-based plan as a Tier 3 plan is triggered when default interventions did not suffice.

III. When do we move to an FAA and PBIP?

1. In California, at any point that our IEP contents have been unsuccessful in addressing serious behavior, we must move to the more intensive approach described in California Education Code.
2. Logic tells us that we should exhaust tier one changes and tier two default behavioral interventions before moving to a more intensive function-based plan for any problem behavior, unless to do so defies common sense (e.g., for serious behavior related to hallucinations where it makes no sense to insist on the exhaustion of lesser interventions).
 - An examination of a BSP blank form will reveal that it is function-based, highly individualized and calculated to remove behavior impeding learning.

- The BSP blank form has been extensively field trialed, comports with the field of applied behavior analysis (thus, validly embodies that paradigm) and has been described and published in peer reviewed journals. See: www.pent.ca.gov for research articles.
- If the BSP is not successful, and the behavior is serious by California Education Code, we must move to Functional Analysis Assessment and Positive Behavioral Intervention Planning for non-responsive behaviors in the category of:
 - i. Assaultive
 - ii. Self-injurious
 - iii. Serious property damage
 - iv. Other pervasive maladaptive behavior
- An FAA and a corresponding PBIP is essentially a Tier 3 “special category” behavior plan for use in any of the resistant behaviors described in i. through iv.
- An FBA is required in IDEA when behavior is a manifestation of a disability and is in danger of triggering an involuntary placement change (i.e., expulsion was considered or removals have gone past 10 days in a school year).
- Functional Behavior Assessment contents are not described in the IDEA. In the field of behavior analysis, we know the assessment is to determine the triggering antecedents for the behavior, and the maintaining consequence for the student (A-B-C) so that we can individualize a behavior plan based on 1. Helping the student use general positive behaviors 2. Stop using the problem behavior and 3. Use a functionally equivalent behavior under triggering antecedent conditions that might have resulted in the problem behavior.
- The FBA can result in either a BSP (a function based plan) or a PBIP (another function based plan if the student has been non-responsive to interventions in the IEP and the behavior is serious by Ed Code i-iv definition). There is a blank FBA form that helps illustrate how to proceed on the PENT website.
- Careful comparison of a BSP and a PBIP plan (see www.pent.ca.gov/forms) will demonstrate that the only difference between the two approaches is 1.) The degree of data collection and written documentation of that process, and 2.) The specificity of progress monitoring components and written description. Additionally, the PBIP requires the “expert” involvement of a Behavior Intervention Case Manager in data collection and progress monitoring, due to previous treatment resistance, whereas the BSP does not require the BICM. There appears to be some confusion in the field about the substantive difference between these two approaches that can be cleared up by a cross comparison of the PENT forms.

IV. Do students in non-public, residential or very restrictive settings due to their behavior need behavior plans even when the program itself has so many components that support the behavior?

This is a difficult and frequent consultation topic that requires consideration of a variety of points.

- A restrictive setting is selected when less restrictive settings have been exhausted. If the student was non-responsive to previous supplementary aids and services, i.e., behavior plans, the IEP team will have determined that:
 - There was a behavior plan to support the least restrictive environment
 - It was being implemented with fidelity
 - The student was a non-responder
- Therefore, the key principle is: **No student should ever be placed in a restrictive setting without evidence that even with supplementary aids and supports, the previous less restrictive environment would not suffice.**
- Therefore, if everyone is adequately implementing the IDEA, no student will be placed in a restrictive environment without a conclusion that the behavior plan from the previous placement was implemented with fidelity, and the student was non-responsive.
 - The one exception to that rule may be extremely dangerous, one time behavior, such as an extreme assault (see Ed Code for the full lengthy definition) or bringing a weapon. In this situation, the restrictive setting is obligated to develop the plan “to be sure the behavior does not occur.” That plan can be BSP or PBIP depending on the type of behavior.
- The current restrictive placement IEP team has 30 days to develop the new IEP for use in the new setting. This includes all necessary supplementary aids and supports. During that time, the staff should review previous interventions, what worked and what didn't work, as they determine how they will alter the previous behavior plan.
 - If the student shows no evidence of needed a behavior plan in that 30 days, the placement itself becomes suspect.
 - Program descriptions are not individualized supplementary aids and supports. They would need to be altered to correspond to the unique needs of the individual student to be part of an IEP.
 - For students in California, or students placed in programs in other non-public schools, or in other states receiving funding from California, California Ed Code must be enforced. This means, if the student had serious behavior as described above, and an FAA has not yet been conducted, it should be conducted in the new placement, and if required, a PBIP must be developed.
 - Note: An FBA will have been conducted if the removal was involuntary and if the behavior was a manifestation of the disability. It may have many components that can be used in the FAA.
 - Not every FAA must result in a PBIP, but a rationale for why one is not being developed should be given.

- If the IEP team determines no PBIP is required for the serious behavior, the team must still ask” does the student have behavior impeding learning during the IEP development. The response should be: Yes, No, or Maybe, and the result of that determination, as described above, would be addressed in the IEP.

V. Take home messages

- Address behavior before it becomes an impediment to academic and social emotional achievement!
- Address behavior with the least intrusive, least restrictive intervention before moving to more intensive analysis and plan development
- Work to establish and maintain high quality decision making based on student response to educational programming (Rtl).
- Progress monitor continuously and make decisions based on responsiveness no matter what tier is being used
- Ensure fidelity before making determinations to move to more intrusive, extensive and time consuming analysis and plan descriptions

VI. How should we more skillfully address problem behavior, correcting for possible intervention errors?

- **Address behavior early!:** Stop refusing to address behavior in early stages. Consult on environmental changes to support behavior, before identifying the student for more intrusive interventions.
- **Move up the tiers when needed:** Stop refusing to move to more extensive plan development when data demonstrates non-responsiveness. Move to FAA and PBIP when the behavior is serious and non-responsive to BSP.
- **Address behavior with least intrusive methods:** Stop developing behavior support plans when the behavior is mild, does not impede learning, and when tier 1 and tier 2 supports have not been used first
- **Develop BSPs when behavior is impeding learning of the student or peers:** At times, failure to address behavior has been ruled “failure to deliver free, appropriate public education (FAPE).” This is costly for districts when “compensatory education” funds are ordered to make up for the loss of FAPE, not to mention legal fees and possible private school placements the family has made.
- **Monitor student achievement and staff fidelity of treatment with equal rigor:** The hallmark feature of evidence-based practice is addressing these data based decision making errors once we have found interventions that work!
- **Train staff on the rationale and methods of behavior Rtl** so that the entire school community focuses on time efficient, evidence-based and legally compliant educational programming.