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SELPA Policy C-24

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Behavioral Intervention

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 and the disciplinary measure to be imposed would constitute a change in placement.

(cf. 5131 – Conduct)

(cf. 5144 – Discipline)

(cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))

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 supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior (Education Code 56521.2; 34 CFR 300.324).

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 as necessary to address the student's behavior (Education Code 56520; 34 CFR 300.324, 300.530).

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, as appropriate, a FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur (34 CFR 300.530).

Functional Behavioral Assessment

Prior to providing any behavioral intervention service to a student with a disability, a FBA focusing on identifying the function or purpose of the student's behavior may be conducted by the student's IEP team

Before any FBA is conducted, the program administrator or designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain parent/guardian's consent (Education Code 56321; 34 CFR 300.324).

(cf. 6159 – Individualized Education Program)

(cf. 6159.1 – Procedural Safeguards and Complaints for Special Education)

If the parent/guardian disagrees with the result of a FBA, he/she has the right to obtain an independent educational evaluation at the local educational agency's (LEA) expense, subject to the conditions specified in 34 CFR 300.502.

Behavioral Intervention Plan and Services

When any behavioral intervention, support or other strategy is to be used by the LEA, the program administrator or designee shall consider the student's physical freedom and social interaction, and administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensures the student's right to be placed in the least restrictive environment (Education Code 56520).

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 program administrator or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner (Education Code 56520).

Qualifications of Personnel Assigned to Conduct Behavioral Assessments

A credentialed School Psychologist, trained and knowledgeable school staff, and/or a Board Certified Behavior Analyst (BCBA) may conduct behavioral assessments following the LEA's receipt of parental consent. Other forms of certification, licensure, or training may also qualify a holder to conduct behavioral assessments. LEAs shall ensure that personnel possess the necessary qualifications to conduct behavioral assessments consistent with Education Code 56525 or 5 CCR 3065.

Qualifications of Personnel Assigned to Develop Behavioral Interventions

Personnel that hold any of the following credentials/licensures may develop behavioral intervention:

- Pupil Personnel Services Credential in School Counseling or School Psychology;
- California credential authorizing the holder to deliver special education instruction;
- Board Certified Behavior Analyst;
- License as a Marriage and Family Therapist (MFT) (issued by the Board of Behavioral Sciences (BBS) within the Department of Consumer Affairs);
- License as a Clinical Social Worker (issued by the BBS);
- License as an Educational Psychologist (issued by the BBS);
- License in Psychology (issued by the California Board of Psychology within the Department of Consumer Affairs); or
- Master's Degree in Education, Psychology, Counseling, Behavior Analyst, Behavior Science, Human Development, Social Work, Rehabilitation, or a related field (issued by a regionally accredited post-secondary institution of higher education).

Qualifications of Personnel Assigned to Implement Behavioral Interventions

Any certificated or classified staff assigned to provide behavioral intervention, including implementation of Behavioral Intervention Plans, must either:

- Be qualified to develop behavioral intervention; or
- Be under the supervision of an individual qualified to develop behavioral intervention and
 - Possess a high school diploma; and
 - Receive the specific level of supervision required in the IEP.

Training of Personnel to Conduct, Develop, and Implement Behavioral Intervention

The Marin County SELPA shall conduct an annual training for the SELPA's member LEAs regarding how to conduct, develop, and implement behavioral interventions. The training shall include information on data collection procedures, conducting functional behavioral assessments, developing positive behavioral interventions, and implementing behavioral interventions within the school setting.

Emergency Intervention

An emergency intervention may only be used to control unpredictable, spontaneous behavior that 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 (Education Code 56521.1).

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 program administrator/designee or law enforcement agency, as applicable to the situation (Education Code 56521.1).

Emergency intervention shall not involve the use of force exceeding what is reasonable and necessary under the circumstance. 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 (Education Code 56521.1). An educational provider shall keep a constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. The observation required shall not be through indirect means, including through a security camera or a closed-circuit television. (Education Code 49005.8(b)).

An educational provider shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others. If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.

Prohibited Interventions

The use of corporal punishment as defined in Education Code 49001 is prohibited as an intervention. In addition, a LEA or nonpublic, nonsectarian school or agency serving individuals with exceptional needs shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

- Any intervention that is designed to, or likely to, cause physical pain, including but not limited to electric shock;
- An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual;
- An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
- An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma;
- Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention;
- Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
- An intervention that deprives the individual of one or more of his or her senses; • An intervention that uses seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation;
- An intervention that uses a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back;
- An intervention that uses a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.
- An intervention that places a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back; or
- An intervention that uses a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

Emergency Intervention Procedures

When an emergency intervention needs to be utilized by school staff or serious property damage takes place, all of the following shall occur:

- Program administrator or designee shall be notified immediately (Education Code 56521.1);
- Program administrator or designee shall determine if assault/battery has occurred and whether law enforcement shall be notified consistent with the requirements of California Education Code 48900 and 48902;
- Parent, guardian, and residential care provider, if appropriate, shall be notified immediately (within one school day) by educational staff member or program administrator of the use of the emergency intervention or serious property damage (Education Code 56521.1);
- A Behavioral Emergency Report (BER) shall be completed by the end of the same school day that the emergency intervention or serious property damage occurred (Education Code 56521.1). The BER shall be completed by the educational staff involved in the incident;
- A copy of the report shall be kept in the student's file (Education Code 56521.1);
- On an annual basis, all of the SELPA's member LEAs shall report to the California Department of Education (CDE) regarding the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency for all or part of the prior school year (Education Code 49006);
- When a BER is written regarding an individual with exceptional needs who does not have a BIP the designated responsible administrator shall schedule within two (2) days an IEP team meeting to review the emergency report, to determine the need for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both (Education Code 56521.1);
- When a BER is written regarding an individual with exceptional needs who has a BIP, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the BIP (Education Code 56521.1); and
- Program administrator or designee shall review the appropriateness of applying disciplinary procedures, such as suspension and expulsion, as specified in California Education Code 48900.

Staff certified in physical restraint procedures used in Professional Assault Crisis Training (Pro-ACT), Non-Violent Crisis Prevention Institute (NCPI), or other comparable professional certifications shall only apply emergency intervention techniques. Recertification shall occur consistent with requirements of the program or LEA requirements, whichever is more frequent.