



## **Behavior**

*This brief highlights the provisions of the **Individuals with Disabilities Education Act (1997)**<sup>1</sup> related to discipline and Positive Behavioral Supports. A list of informative websites, developed by PEATC and other collaborators, follows for those interested in further research and information.*

### **Individuals with Disabilities Education Act Discipline & Behavior Provisions**

#### **Development of the IEP [614(d)(3)]**

When developing the IEP, the IEP team shall consider [614(d)(3)(B):

- the strengths of the child and the concerns of the parents for enhancing the education of their child, and the results of the most recent evaluation of the child;
- ***in the case of a child whose behavior impedes his/her learning or that of others, strategies, including positive behavioral interventions and supports, to address that child's behavior;***
- in the case of a child with limited English proficiency, the language needs of the child as such needs relate to the IEP;...
- the communication needs of the child, and in the case of a child who is deaf or hard of hearing, the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;
- whether the child requires assistive technology devices and services.

#### **IEP [614(d)(1)(A)]**

The IEP is a written statement of the child's present levels of educational performance; how the disability affects his/her involvement and progress in the general curriculum; a statement of measurable annual goals and benchmarks or short-term objectives necessary to enable him/her to be involved in, and progress in, the general curriculum, and to meet each of the child's other educational needs; the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and any program modifications or support for school personnel necessary for the child to advance appropriately toward attaining the annual goals, to be involved in, and progress in, the general curriculum, and to participate in extracurricular and other nonacademic activities, and to be educated with and participate with other children in the regular class.

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<sup>1</sup> Changes to the behavior protections in IDEA '97 were made in the most recent reauthorization. However, the process included in this fact sheet remains in effect until July 2005. Discipline provisions contained in this brief were shared by Diana Auten, SPAN of New Jersey.



### **Maintenance of Current Educational Placement (Pendency Placement) [615(j)]**

During the pendency (undecided period) between of any administrative proceeding, unless the LEA and parents agree otherwise, or unless the child has engaged in behavior subject to an up-to-45 day placement in an alternative educational placement, the child shall remain in the then-current educational placement.

### **Discipline Changes - IDEA Language [615(k)]**

The IEP team, including the parents, may determine that the behavior was NOT a manifestation of the child's disability ONLY when they determine that, in relationship to the behavior subject to disciplinary action, (a) the child's IEP and placement were appropriate, and special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP, (b) the child's disability did not impair the child's ability to understand the impact and consequences of the behavior subject to disciplinary action, and (c) the child's disability did not impair the child's ability to control the behavior. [615(k)(4)]

If the behavior is determined NOT to be a manifestation, relevant disciplinary procedures used with non-disabled children may be applied, except there can be no cessation of services (i.e., no expulsion to nowhere) [615(k)(5)]. If the behavior is determined to be a manifestation, NO DISCIPLINARY ACTION may be imposed.

### **Discipline: Report Language:**

“The bill requires that, **either before or not later than 10 days** after taking such a disciplinary action, if the LEA did not conduct a behavioral intervention plan for such child before the behavior that resulted in the suspension, the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or if the child already has a behavior intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.”

“In addition, **immediately if possible**, but in no case later than 10 school days after the date on which the decision to take that action, **a review shall be conducted by the IEP team and other qualified personnel of the relationship between the child's disability and the behavior subject to the disciplinary action...**The bill prescribes the relevant information that must be considered by the IEP team in carrying out a review in terms of the behavior subject to the disciplinary action - all relevant information, including evaluation and diagnostic results, including relevant information supplied by the parents, observations of the child, and the child's IEP and placement...In addition, this section prescribes, also in terms of the behavior subject to disciplinary action, the standards for determining whether or not the behavior of the child was a manifestation of the child's disability: The IEP team must determine that:



(1) in relation to the behavior subject to disciplinary action, **the child's IEP and placement were appropriate, and special education and related services, and supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;**

(2) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

(3) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.”

“The committee offers the following clarification with respect to the first standard...This standard recognizes that where there is a relationship between a child's behavior and the failure to provide or implement an IEP or placement, the IEP team must conclude that the behavior was a manifestation of the child's disability. Similarly, where the IEP team determines that an appropriate placement and IEP were provided, the IEP team must then determine that the remaining two standards have been satisfied...**A child with a disability would not be subject to disciplinary action for behavior that was a manifestation of the child's disability...**”

“If parents disagree with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parents may request a hearing. In such a case, the State or LEA shall arrange for an expedited hearing. In reviewing a decision with respect to the manifestation determination in an expedited hearing, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability...**the officer is to: determine if the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;** consider the appropriateness of the child's current placement; **consider whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services.**”

## Virginia Websites on Behavior & Discipline

### **An Overview of Functional Behavioral Assessment and Behavioral Intervention Plans in Virginia**

[http://www.pen.k12.va.us/VDOE/Instruction/Sped/overview\\_fba.pdf](http://www.pen.k12.va.us/VDOE/Instruction/Sped/overview_fba.pdf) The information contained in this booklet was compiled from a series of discussions on emerging effective practices for dealing with student behavior problems. Participants included parents, school administrators, psychologists, regular and special classroom teachers, university researchers and teacher educators, mental health and other community agency personnel convened by the Virginia Department of Education.

### **Conducting Functional Behavioral Assessment and Developing Positive Behavioral Intervention Plans and Supports: Promoting Positive Academic and Behavioral**



### **Outcomes for All Students**

[http://www.pen.k12.va.us/VDOE/Instruction/Sped/monograph\\_fba.pdf](http://www.pen.k12.va.us/VDOE/Instruction/Sped/monograph_fba.pdf) A collaborative guide produced by the Virginia Department of Education and The Center for Effective Collaboration and Practice, American Institute for Research

### **Technical Assistance Resource Document on Discipline**

[http://www.pen.k12.va.us/VDOE/Instruction/Sped/sped\\_discipline.pdf](http://www.pen.k12.va.us/VDOE/Instruction/Sped/sped_discipline.pdf) Detailed guidance developed by the Virginia Department of Education for parents and administrators

## **General Websites on Behavior & Discipline**

### **TA Center of Positive Behavioral Interventions & Supports**

<http://pbis.org/main.htm>

Research on the results of PBIS on behavior and academic achievement – easy-to-use tools for families, schools, administrators, community (information in Spanish coming soon).

### **Consortium for Appropriate Dispute Resolution in Special Education**

<http://www.directionservice.org/cadre/index>.

Information/resources/communication tools for parents, professionals, and students to build agreement and prevent disputes. Resources in Spanish.

### **Bazon Center: Suspending Disbelief**

<http://www.bazon.org/issues/children/publications/suspending/suspendingdisbelief.pdf>

Includes research, discussion of rights, Functional Behavioral Assessment (FBA) and Behavioral Intervention Plan, Interventions for Children and Schoolwide Efforts.

### **Center for Effective Collaboration and Practice**

<http://www.air.org/cecp>

Includes information on behavior plans, collaboration, and behavioral assessment.

### **Council for Children with Behavioral Disorders**

<http://www.ccbd.net>

Newsletters, articles, FAQ's, and other information about behavior issues are included in this Web site of the CCBD, an affiliate of the Council for Exceptional Children.

## **Bullying**

### **National Council of Juvenile and Family Court Justices**

<http://training.ncjfcj.org/bullying.htm> Annotated links for good resources

### **Stop Bullying Now – Public Awareness Campaign**

<http://www.stopbullyingnow.hrsa.gov/index.asp>

Maternal & Child Health Bureau site put together for youth by diverse youth. Option to download kits and other resources for adults.