


MO-CASE/MAESP Q&A Webinar: Responding to Behavior – What’s Legal, What’s Effective

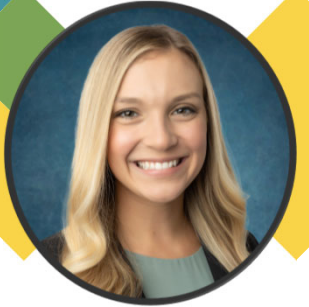


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- **Focus:** Behavior plans, manifestation determinations, MTSS, and legal responses to behavior challenges.
 - **Goal:** Help you lead behavior supports that protect students, staff, and your school’s compliance.

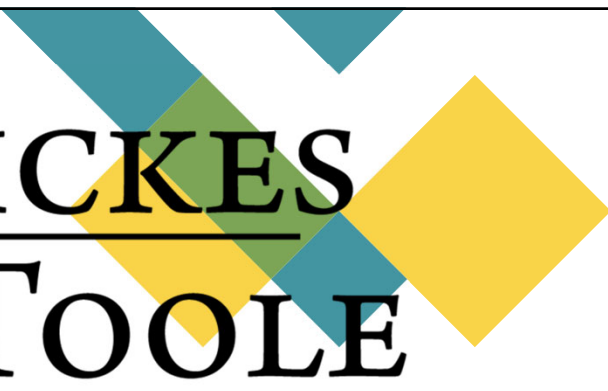
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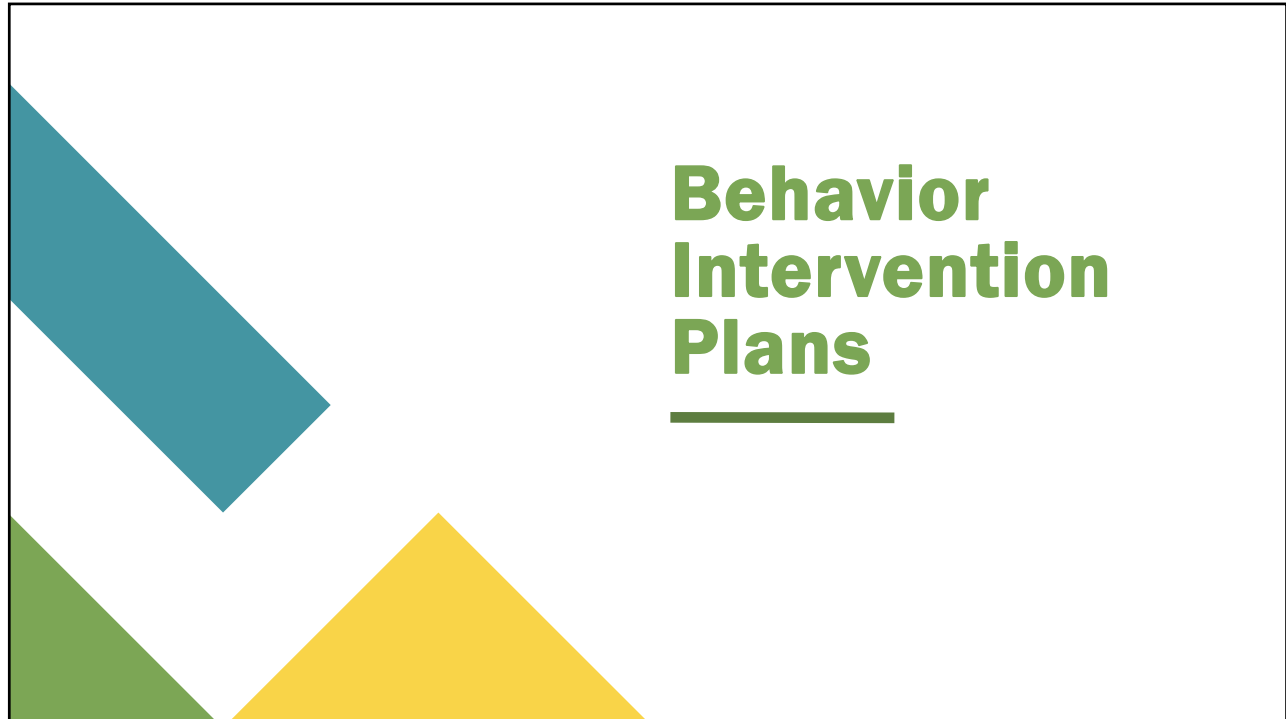
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Addressing Behavior: FBAs

- For instructional purposes or part of RED using existing information
- For an evaluation for purposes of eligibility or identifying needs or additional information needs to be gathered (consent required)

How do you document compliance with a BIP? Strategies that are working?

The slide features a white background with a black border. On the left side, there are three overlapping geometric shapes: a teal triangle at the top, a green triangle at the bottom left, and a yellow triangle at the bottom right. The title 'Addressing Behavior: FBAs' is written in a bold, black, sans-serif font at the top center, with a short green horizontal line underneath it. Below the title is a bulleted list with two items. At the bottom of the slide, there is a bold, black question: 'How do you document compliance with a BIP? Strategies that are working?'.

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Addressing Behavior: BIPs

- Must be proactive
- FBAs/Rating Scales/Observations
- Behavior supports are required if “behaviors impede his/her learning or that of others”

TIP: Process for admin receipt of BIPs

TIP: Process for providing to substitute teachers

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Addressing Behavior: Change of Placement

- Nature or severity of disability is such that education cannot be achieved even with supports
- Progress on behavior goals is decreasing
- “Cannot access FAPE in this placement”
- **TIP:** may impact MDR team decision later

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Addressing Behavior: Change of Placement

- California Due Process Case
- Self-contained classroom was “appropriate and necessary” placement for student with ADHD
- Student’s violent and aggressive behaviors needed more individualized instruction and intensive behavioral interventions to receive FAPE

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Discipline

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Reasonable Modifications

- Must make **reasonable modifications** to discipline policies, practices, or procedures when necessary to avoid discrimination
- Must consider reasonable supports, including appropriate staff in Crisis Response Plans and Threat Assessments
- **TIP: Create practice of school admin contacting Special Education or other district office to discuss potential discipline within certain parameters**

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Reasonable Modifications

- Document use of reasonable modifications in discipline log/record
- Document use of supports and modifications in communication log or emails with parents
- **TIP: Principals notify Special Education directors of increasing behaviors or Out-of-School suspensions**

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Reasonable Modifications

Bus School Policy:

- Students must sit on bus in alphabetical order and stay in seat while bus is moving or else be disciplined
- Student “Wyatt” with ADHD who has difficulty remaining seated on the bus would be assigned to a seat in the back of the bus based on name

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Reasonable Modifications

Bus Scenario Reasonable Modification:

- To support the student in remaining seated and avoiding discipline, the school could modify its practice by assigning the student to sit in the front or by a bus aide

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Reasonable Modifications

Yearbook Club School Practice:

- Students who interrupt others at yearbook club must miss the next yearbook meeting
- Student's evaluation explains that ADHD causes student to frequently interrupt
- Practice could have effect of discriminating against the student with ADHD if the behavior is associated with their disability

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Reasonable Modifications

Yearbook Club Reasonable Modifications:

- Reward the student for the positive behavior of raising their hand before speaking
- Give the student a private visual signal when other students are speaking
- Excuse the student from having to miss the next weekly meeting
- Give a "two strike" practice

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Discipline Records

- Conduct investigation
 - Student Statement
 - Staff Statement
- PRINCIPALS: Series of removals!!!
 - Categories of discipline
- Communication with parents
 - Principal discipline letter
 - Superintendent discipline letter

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Discipline Records

- Take detailed notes (both in discipline meetings and MDR Meetings)
- **TIP:** Determine appropriate note taker before meeting
- **TIP:** Establish procedure for PWN review that doesn't delay parents' receipt

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- IDEA and Section 504 **both** require a Manifestation Determination Review (MDR) when discipline will result in a significant change of placement
- IDEA: MDR “**within** 10 school days of any decision to change the placement”
- Section 504: An evaluation “**before** taking any action with respect to... any significant change in placement”

MDR Meeting

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- Principal/Superintendent Description of Misconduct
- Principal or Superintendent Letter should include notice of MDR meeting requirement
- Provide Procedural Safeguards and Board Policies on discipline

Prior to MDR Meeting

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File	Message	Insert	Options	Format Text	Review	Help	Acrobat
Clipboard	Calibri (Bc) 11 A [^] A ^v <ul style="list-style-type: none"> B I U Color Text Align Indent Outdent Link Unlink 	Address Book Check Names	Attach File Link Signature	Attach File via Link Assign Policy	Follow Up High Importance Low Importance	Tags	
Send	To	Parent Patty					
	Cc						
	Bcc						
	Subject	Re: Discipline					
<p>My ability to implement this discipline is contingent upon a determination that the Student's behavior is not caused by or directly and substantially related to their disability nor due to the District's failure to implement the IEP.</p> <p>Please bring any information to the MDR meeting that you would like his team to consider.</p>							

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Procedural Protections: Tips

- Remind administrators to notify you and put a flag in Student Information Systems
- Create a checklist for administrators on removals



School Removals/Suspensions

Section 504 requires certain actions for school removals/suspensions. Bus suspensions and ISS can be considered school removals if a student does not receive services (Contact Director of Special Services with questions.) This document consists of 3 parts:

- A. Before any Removal/Suspension... p. 1
- B. Determining if Cumulative Pattern (and next steps)... p. 2-3
- C. Long-Term Removal/Suspension... p. 4-5

For each disciplinary action involving a student with a 504 Plan start with section A. Before any Removal/Suspension and follow the directions. Contact the Director of Special Services with any questions.

A. Before any Removal/Suspension

- 1. Check whether student has other removals/suspensions for this school year—including any from another school district if a transfer.



School Removals/Suspensions

IDEA requires certain actions for school removals/suspensions. Bus suspensions and ISS can be considered school removals if a student does not receive services (Contact Director of Special Services with questions.) This document consists of 3 parts:

- A. Before any Removal/Suspension... p. 1
- B. Determining if Cumulative Pattern (and next steps)... p. 2-3
- C. Long-Term Removal/Suspension... p. 4-5

For each disciplinary action involving a student with an IEP, start with section A. Before any Removal/Suspension and follow the directions. Contact the Director of Special Services with any questions.

A. Before any Removal/Suspension

- 1. Check whether student has other removals/suspensions for this school year—including any from another school district if a transfer.
- A. If less than 10 days total for this school year including this removal/suspension, then proceed to **step #2 in this section**.

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Disciplinary Change of Placement

- Make sure to consider & document informal discipline (“early send homes”)
- Count partial days in fractions of days (0.5 or 0.8 days)
- Beware of administrators unilaterally reducing school days (even if parents agree)
- This could be considered OSS or denial of FAPE
- Placement decisions should be made by IEP team

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IDEA	Section 504
<p>Change in placement occurs when:</p> <p>A student is removed for more than 10 consecutive school days; or</p> <p>A student is subjected to a series of removals that constitutes a pattern because:</p> <ol style="list-style-type: none"> 1. Total more than 10 days in a school year 2. Substantially similar behavior 3. Length and proximity of removal 	<p>Change in placement occurs when:</p> <p>A student is suspended or expelled for more than 10 consecutive school days; or</p> <p>A student is subjected to a series of suspensions that are each 10 days or fewer in duration that if combined total more than 10 school days during school year</p>
<p>TIP: Train admin at least annually and determine procedure for making sure removals are tracked</p>	

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Disciplinary Change of Placement (IDEA)

District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement

TIP: Establish a procedure for this district determination & document how the district determined pattern or not

34 CFR § 300.536(b)(1)

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Disciplinary Change of Placement

In-school Suspensions/Informal removals:

- Generally, do **not** count as removal days that requires an MDR if student has opportunity to:
 1. Participate in the general curriculum;
 2. Receive the services specified on the child's IEP; &
 3. Participate with nondisabled children to the same extent
- Could be denial of FAPE if **repeatedly** implemented and IEP team fails to consider other options to allow child to remain in school for full day
- **TIP:** Train school administrators & service providers

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Interim Alternative Educational Setting

1. Carries a Weapon
2. Knowingly has or uses illegal drugs
3. Inflicts serious bodily injury
 - Substantial risk of death;
 - Extreme physical pain;
 - Protracted and obvious disfigurement; or
 - Protracted loss or impairment of the function of a bodily member, organ, or mental faculty
 - Serious bodily injury means serious (NOT kicking, yes choking)
 - Most student assaults will not meet the definition

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“Manifesting” a Successful Meeting

Principal/Superintendent Discipline Letter

- Include MDR Meeting
- Procedural Safeguards

Issue Notice of Meeting

- MDR & IEP/504 Team

Gather Information

- IEP/504, Eval, Discipline, any medical data/doctor’s notes

Invite members knowledgeable of student

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TIP: MDR Data to Review

Consider creating/adopting an MDR form (or use DESE’s) that incorporates the relevant data, teacher input/observation, and parent input:

- Summarize social & emotional status concerns, interventions and discipline history prior to this school year (IEP Present Levels)
- List any information from the IDEA/504 Eligibility Determination & IEP/504 Plan that describes behavioral characteristics and behavioral intervention strategies
- Summarize relevant information provided by the parent
- Review teacher observations

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TIP: Considering Relatedness

- Conduct LEA training utilizing district examples (de-identified) – initial training and advanced training
- Create an MDR Reference Guide: one-pager for admin that details process of MDR meetings & provides guiding questions for the team to consider

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Was it Related?

Emotional Disturbance:

Student eloped from class and started a fire on school grounds

Emotional Disturbance:

Teenage girl kicked a male classmate in the groin

Emotional Disturbance:

Disciplined for drug possession

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Was it Related? YES!

Emotional Disturbance:

Lit bag of chips on fire. Parents had stated history of arson. School psych on MDR team did not have description of incident.

Emotional Disturbance:

Eligible due to PTSD from sexual assault.

Emotional Disturbance:

Student wrote a note that said, "I have pills." History of impulsivity. No intent to bring drugs to school.

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Was it Related?

Anxiety:

Conducted a paintball raid on his high school

Autism:

Brought knife to school in backpack

Depression:

Posted bomb threat online

ADHD:

Student pushed teacher into a wall

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Was it Related? NO!

Anxiety:

Student planned the paintball raid and it lasted several hours

Autism:

MDR team discussed that student made a plan to bring the knife

Depression:

Student had BIP for avoidance and non-compliance

ADHD:

School psych testified that student had time to make an intentional choice

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MDR Team Determinations

1. Was student's misconduct caused by or is directly and substantially related to their disability?
2. Was the student's misconduct cause by district's failure to implement student's IEP?

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If Behavior IS Manifestation (IDEA)

TIP: MOVE INTO IEP TEAM MEETING

- Ask how disability impacts student's behavior
- Any change to Special Education services needs to be an IEP decision
- Eligibility, goals, and services should align
- Any change to accommodations/modifications needs to be discussed in light of behavior
- Review BIP to determine if changes are needed; or conduct an FBA and include a BIP

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If Behavior is NOT Manifestation (IDEA)

- Then student is subject to the **same disciplinary sanctions as a student without a disability**
- Student "continues to receive educational services that enable them to continue to participate in the **general education curriculum**, although in another setting, and to progress toward meeting the goals set out in the IEP"
- Student "receives, as appropriate, a **Functional Behavioral Assessment and Behavioral Intervention Plan** and services and modifications that address the behaviors that led to the disciplinary incident"

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If Behavior is NOT Manifestation (IDEA) Cont.

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- **Move into IEP team meeting to discuss services during OSS**
 - Special Education services
 - Related services
 - Gen Ed Services
 - **Services should align with goals**
 - **Issue PWN on Change of Placement**

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Thank you!

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