Introduction

California’s 2013 Assembly Bill (AB) 86 changed Education Code §56520 regarding emergency behavioral interventions. The state has continually sought to provide an appropriate and meaningful educational program in a safe and health environment for all children regardless of possible physical, mental or emotional disability conditions. There is recognition that some school age individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of others, or both. Both research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports (PBIS) to address the learning and behavioral needs of those students.

Students who exhibit serious behavioral challenges should receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act and its implementing regulations. Assessments and positive behavioral interventions and supports should be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Program.

When behavioral interventions, supports, and other strategies are used, they must be used in consideration of the student’s physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a student’s right to placement in the least restrictive educational environment. When the student is also the responsibility of another agency for residential care or related services, the behavioral intervention plans must be developed and used, to the extent possible, in a consistent manner.

It is recommended that PBIS training programs be developed and implemented in institutions of higher education that train teachers and that educationally sponsored in-service programs be made available to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

Guiding Principles

These guiding principles support revisions to Education Code §56521.1.

- Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student with disabilities, 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 the systematic behavioral intervention plans that is designed to change, replace, modify, or eliminate a targeted behavior.

• No emergency intervention shall be employed for longer than is necessary to contain the behavior. Any situation that requires prolonged use of an emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, as applicable to in the situation.

Prohibitions

Emergency interventions may not include:

1. Locked seclusion unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

2. Employment of a device, or material, or objects that simultaneously immobilizes all four extremities, except that techniques such as “prone containment” may be used as an emergency intervention by staff trained in those procedures.

3. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

In addition, Education Code §56521.2 specifically prohibits a local education agency (LEA), nonpublic school or nonpublic agency (NPS/A) serving individuals with exceptional needs from authorizing, ordering, consenting to, or paying for the following interventions, or any other interventions similar to or like the following:

1. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

2. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

3. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

4. 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.

5. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.

6. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked rom.

7. An intervention that precludes adequate supervision of the individual.

8. An intervention that deprives the individual of one or more of his or her senses.

In the case of a child whose behavior impedes the child’s learning or that of others, the individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

Writing a Behavioral Emergency Report

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention is used or serious property damage occurs.
A “Behavioral Emergency Report” (BER) shall immediately be completed and maintained in the file of the individual with exceptional needs. All staff members involved jot down notes about the occurrence as soon as possible. Those involved meet to jointly complete the report form, using their notes for reference. The Behavioral Emergency Report must include all of the following:

- The name and age of the individual with exceptional needs;
- The setting and location of the incident;
- The name(s) of the staff or other persons involved;
- A description of the incident and the emergency intervention(s) used;
- Whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan; and
- Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident. [§30521.1 (e)]

All Behavioral Emergency Reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator. If the individual with exceptional needs is receiving services from a nonpublic school, nonpublic agency, and/or a residential treatment center, a copy of the report must be sent to the SELPA per the Master Contract. The SELPA Behavior Emergency Report Form is included with this document and is available on the SELPA SEIS page and website: [http://www.rcselpa.org](http://www.rcselpa.org).

**Follow-up IEP Meeting Requirements**

The flow chart at the end of this document provides a picture of this process. Anytime a “Behavioral Emergency Report” is written regarding an individual with exceptional needs who does not have a positive behavioral intervention plan, the designated responsible administrator shall:

- **Within 1 Day**: Contact parent;
- **Within two (2) Days**: Schedule an IEP team meeting to review the emergency report and determine the need for a Functional Behavioral Assessment (FBA) and/or need for an interim plan.
- **At the IEP meeting**: The IEP team shall document in the IEP Team Meeting Comments/Continuation Page the reasons for not conducting a FBA and/or not developing an interim plan OR initiate a Functional Behavioral Assessment.
- **Ensure that the FBA is completed as soon as possible so that results and recommendations for development or modification of a positive behavioral intervention plan are available for review by the IEP team** (See Positive Behavioral Interventions and Supports: A Tiered Approach available at [www.rcselpa.org](http://www.rcselpa.org)).

Anytime a Behavioral Emergency Report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan (PBIP), an incident involving a previously unseen serious behavior problem, or where a previously designated intervention is ineffective, the administrator shall refer the incident to the IEP team to review and determine if the incident constitutes a need to modify the PBIP.

- Minor modifications to the PBIP to improve program effectiveness can be made by and the parent (or parent representative) without the entire IEP team. Any minor modifications must be added to the PBIP only if the parent is notified of the need and is able to review the existing program evaluation data (i.e., incident reports, point sheets, progress reports, etc.) prior to the implementation of any changes. The
parent must also be informed of the right to question any modification to the plan by going through IEP procedures.

- Significant changes require the teacher and qualified designee to conduct additional functional behavioral assessment (FBA). Proposed changes to the PBIP are to be based on the FBA results.

An IEP team or behavioral intervention planning team capitalizes on the experience and expertise of all its members. The individual’s parents, as well as aides, regular education teacher, school psychologist, program specialist, or other interested credentialed staff, all have an integral part in the planning and intervention process.

**Compliance Requirements**

AB 86 was signed to ensure that California implements the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and associated federal regulations. This procedure is intended to provide the clarity, definition, and specificity necessary for LEAs to comply with these requirements. The state Superintendent may monitor LEA compliance with these Education Code sections and may take appropriate action, including fiscal repercussions, if either of the following is found:

1. The LEA failed to comply with this chapter and failed to comply substantially with corrective action orders issues by the California Department of Education resulting from monitoring findings or complaint investigations.
2. The LEA failed to implement the decision of a due process hearing officer based on noncompliance with this part wherein noncompliance resulted in the partial denial of, or impeded the delivery of, a free appropriate public education for an individual with exceptional needs.

Approved: December 2010

Revised: May 2013, August 2013
**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)**

**BEHAVIORAL EMERGENCY REPORT**

The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)

Last Name: ____________________  First Name: ____________________  Age: ___  Date of Report: ___ / ___ / ___

Date of Incident: ___ / ___ / ___  Time Incident Began: _________________  Time Incident Ended: _________________

District of Residence: ____________________  District of Attendance: ____________________

School: ____________________  Setting/Location of Incident: ____________________

Complete form to describe what occurred including events that led up to the behavioral emergency.

<table>
<thead>
<tr>
<th>EMERGENCY INTERVENTION(S) UTILIZED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Check all that apply:</td>
</tr>
<tr>
<td>☐ Escort</td>
</tr>
<tr>
<td>☐ Prone containment _____ (length of time)</td>
</tr>
<tr>
<td>☐ Other physical containment _____ (describe) _____ (length of time)</td>
</tr>
<tr>
<td>☐ Law enforcement involvement</td>
</tr>
<tr>
<td>☐ Other (e.g. 5150, Department of Mental Health, etc.) _____</td>
</tr>
</tbody>
</table>

Name(s) and positions(s) of staff/others involved _____

☐ No observable injuries  or  ☐ Injuries sustained by student _____

☐ No observable injuries  or  ☐ Injuries sustained by others (including other students and staff) _____

Other pertinent information: _____

☐ Site administrator notified of incident: Date: ___ / ___ / ___  Time: _____

__________________________________________

Copy of BER immediately sent to designated responsible administrator Date: ___ / ___ / ___  By whom: _____

Recommend parent notification within 24 hours Date: ___ / ___ / ___  By whom: _____

Copy sent to administrator of district of residence Date: ___ / ___ / ___  By whom: _____

Copy placed in student file (on site and at District Office) Date: ___ / ___ / ___  By whom: _____

If student’s IEP includes services from a contracted NPS, NPA and/or CBS, send copy of report to SELPA Date: ___ / ___ / ___  By whom: _____
RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)
BEHAVIORAL EMERGENCY REPORT

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Check ONE box:

☐ Student does not have a current behavioral intervention plan. Within two days of the behavioral emergency, the designated responsible administrator shall schedule an IEP meeting to review the emergency report to determine the necessity for a functional behavioral assessment, and to determine the need 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.

☐ Student has an existing positive behavioral intervention plan. When an incident involving a previously unseen serious behavior problem occurs, or when a previously designed intervention is ineffective, the IEP team shall convene to review the incident and determine if there is a need to modify the positive behavioral intervention plan.

BEHAVIORAL EMERGENCY REPORT

Describe what occurred including events that led up to the emergency ______

IF CONTAINMENT WAS USED DIAGRAM BELOW

Person(s) Completing this form (Print)  Name: _____  Position: _____
Name: _____  Position: _____
Name: _____  Position: _____

Signature of person completing this form: ___________________________
A problem behavior requiring an emergency intervention for safety occurs

Principal files Behavioral Emergency Report (BER), contacts parents and schedules an IEP meeting
Note: May also file site incident report

IEP team considers BOTH:

Is a Functional Behavioral Assessment needed?

Yes
IEP team initiates a FBA, then subsequently develops a positive behavioral intervention plan if IEP team decides one is needed after FBA report is reviewed

No
IEP team must write rationale for no FBA

Is an “Interim Behavior Plan” required?

Yes
Develop an interim plan (can be a positive behavioral intervention plan)

No
IEP team must write rationale for no interim plan

If no FBA or Interim Plan, then IEP team further considers: “If behavior impedes learning of the student or others” and “behavioral/ instructional approaches are needed” and “strategies, including positive behavioral interventions strategies and supports,” are needed because of this behavior that required an emergency intervention