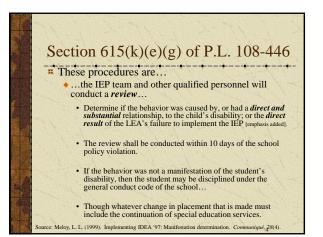


# Manifestation Determination

- **#** IDEA '97 and '04
  - Mandates schools make a determination as to whether a school policy (or rule) violation by a special education student is a manifestation of their disability.

# Section 615(k) of P.L. 108-446

- \* Requires procedures to be followed in the event any special education student violates a school discipline policy that ...
  - •Results in a suspension of over 10 days
  - •Results in a suspension, which when combined with other suspensions, totals more than 10 days
  - •Results in a proposed expulsion
- \* Such are viewed as a change of placement

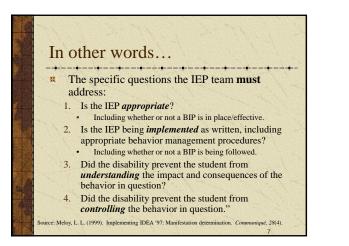


# **Review Requirements**

- \* The team considers all relevant information
  - Evaluation findings
  - Teacher observations of the student
  - The student's IEP and placement
  - Relevant information provided by the parents
- The team makes four determinations
  - If the IEP/placement are *appropriate*
  - If the IEP is being *implemented*.
  - If the disability impaired the students ability to
  - understand the impact/consequences of the behavior
  - If the disability impaired the students ability to *control*

# In other words...

- Discipline of special educations students is not reflexive and reactive.
- \* IDEA 2004 mandates that an IEP team, not just an administrator in charge of discipline, carefully review the data on a particular special education student to decide if there is a *direct* relationship between a current instance of misconduct and the student's disability to make decisions about the consequence for the misconduct as well as the student's continuing educational and behavioral needs.

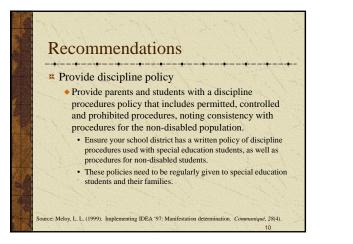


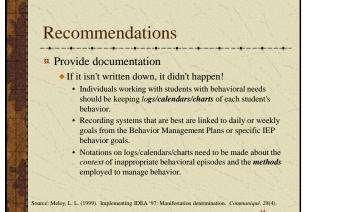
# In other words...

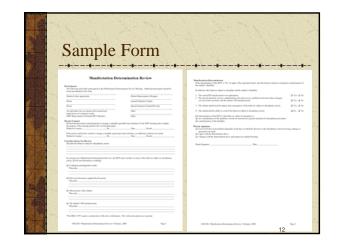
- If the LEA, parents, and IEP team determine the student's conduct was a manifestation of the student's disability...
  - If not part of the IEP conduct a FBA and implement a BIP.
    If a FBA and BIP have been completed review and modify the BIP as indicated.
  - Return the student to the placement from which the child was removed.
  - Exception added by IDEA 2004 [615 (k)(1) (G)]
    - Child carries a weapon to or possesses a weapon
      Knowingly possesses or uses illegal drugs
    - Child has inflicted serious bodily injury (i.e., involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member) upon another person.

# Recommendations

- Develop behavior management plans
  - Have behavior intervention/management plans in place for all special education and 504 students who need them.
    - including specific behavior emergency procedures.
  - In other words,
    - Special education students with behavior problems should have either a BIP and specific goals addressing behavioral needs.
- Source: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).









# 12 Best Practices (Meloy, 1999)

- 1. Collection and examination of behavior records over the period of the IEP.
- 2. Examination of the components of the IEP's BIP for its impact in increasing/decreasing the behavior(s) of concern.
- 3. Collection of information on general school performance from school staff.
- 4. Collection of information on home behavior/concerns from parents.
- 5. Review of academic/behavioral historical data on the student.

# 12 Best Practices (Meloy, 1999)

- 6. Interview with the student, emphasizing the student's current emotional health as well as his/her understanding of the school policy violation.
- 7. Interview with the teacher(s) involved with the student, emphasizing the extent of normalcy of the behavior in question for the student/peers.
- 8. Interview with administrators in regard to the particulars of the school policy violation.
- 9. Review of the current program for and placement of the student.

# 12 Best Practices (Meloy, 1999)

- 10. Consideration of the characteristics of individuals with this student's disability to identify consistency/inconsistency of behavioral characteristics of this student to expectations for a group of similarly disabled students.
- 11. Consideration of the cognitive, emotional, and behavioral status of the student in regard to the school policy violation and self-control.
- 12. Review of options for available and appropriate programming.

urce: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

### Example 1: Hearing Impaired Student

- # Services: Resource Room daily and Itinerant Hearing Impaired Services weekly
- *Incident:* Junior girl caught smoking for the third time in the high school restroom
- \* School Discipline Policy: 3-day in-school suspension--1st offense; 6-day in-school suspension--2nd offense; suspension from school for remainder of semester -- 3rd offense.
- **Background Information about Student:** No complaints from parents for offenses 1&2. Student has high average intelligence; reads at the sixth grade level, reads lips extremely well and has fairly good oral speech. Student has a history of frequent absences - just under the amount needed to be referred for truancy. Source: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

# Example 1: Hearing Impaired Student

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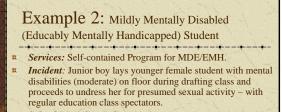
- **\*** The Dozen Do's:
  - No other discipline problems 1.
  - 2. Nothing on current IEP in regard to the high absenteeism
  - 3. Student failing in some subjects and doesn't have the credits to graduate with her class without attending summer school
  - Parents' concern now for possibly not meeting graduation requirements and current defiance of their home curfew rules
  - 5. Recently the student had a part-time job at Hardee's that she couldn't handle due to the ambient noise
  - 6. Student read the school policies and gave appropriate interpretations for each
  - 7 The hearing impairment would not interfere with misinterpretation of the school's no smoking rules

Source: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

# Example 1: Hearing Impaired Student

- 8. Protocol followed
- 9. Resource support daily and itinerant hearing impaired services weekly 10. Other high average intelligence, hearing impaired students would be expected to understand and follow this school policy

- 11. Understands policy and appears to want to use her disability in order to not lose credits and be able to graduate with her class; self-control is not an issue
- 12. Discipline per school policy\*, although student's IEP needs to better address current needs with an increase in the amount of time for special assistance, a home-school coordinated behavior management plan to increase school attendance when she returns second semester, and owner counseling. career counseling
- Suspension from school for the remaining three weeks of the semester, but with continuation of special education services, which in this case were delivered as homebound instruction rce: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué<sub>1</sub> §8(4).



- School Discipline Policy: 10-day suspension; mental health evaluation prior to school reentry.
- 25 Background Information about Student: Intellectual functioning in the 60-64 range (at or above 1% of others of the same chronological age). Student is 18 years old, reads at the early second grade level and has been in a self-contained special education classroom since age three.
- Source: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

### Example 2: Mildly Mentally Disabled (Educably Mentally Handicapped) Student

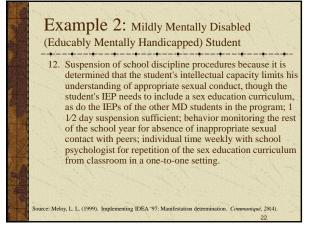
- **The Dozen Do's:** 
  - 1. No previous behavioral problems 2. No Behavior Management Plan
  - 3. Functional academics and life skills programming
  - 4. Foster family's concerns of late for inappropriate touching of female siblings and cousins
  - 5. Appropriate progress for a mental disabilities student
  - 6. Student could report what he did, that he'd seen the same thing on TV, and that the girl "liked him"; student stated that the other boys in the class were clapping; he also stated that he "was in trouble;" he could separate pictures into two piles for "friend touching" and "intimate sexual touching."
  - 7. Hard-working and kind boy who wants to please and is responsible at his work placements

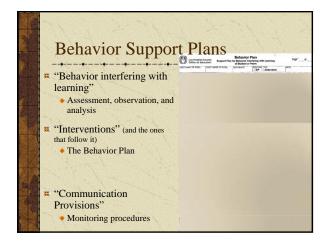
urce: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

### Example 2: Mildly Mentally Disabled (Educably Mentally Handicapped) Student

- Teacher not in room (reprimand issued to teacher); parents of female 8. student very concerned about daughter's vulnerability and future safety, demanding "proof" from the administration that this thing would not occur again; male student sent home the remainder of the day of the incident, was ill the next day, and then there was a four-day school holiday
- 9. Self-contained Mental Disabilities Class with work study, but no sex education curriculum
- 10. Not uncommon for adolescent MD students to exhibit inappropriate sexual behavior in various settings
- 11. Limited if any understanding of inappropriateness of his behavior in the school setting, due to his limited mental capacity; usually wellcontrolled behavior compromised due to peer attention

ource: Meloy, L. L. (1999). Implementing IDEA '97: Manifestation determination. Communiqué, 28(4).

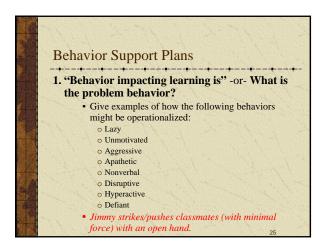




- 1. "Behavior impacting learning is" -or- What is the problem behavior?
  - Describe what the behavior looks like in objective *measureable* terms.
  - If you use general behavioral category terms such as "aggression," give examples of what the student actually does.
  - It is best to limit a behavior plan to one or two distinct behaviors.
     O If you are addressing more than one behavior, number.
    - If you are addressing more than one behavior, number each behavior to correlate with matched functions, matched interventions and reactive strategies later in the plan.
    - o It can be difficult to address more than two behaviors per each BSP form because the plan will become confusing and difficult to implement.

Manifestation Determination Behavior Support Plans

ning Wright et al. (2009).



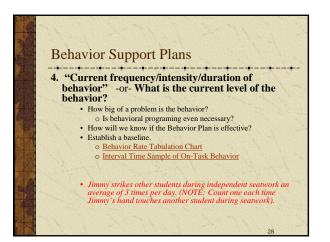
- 2. "It impedes learning because" -or- Does the behavior adversely affect learning?
  - The BSP needs address something more than that which annoys adults.
     It must clearly affect learning.

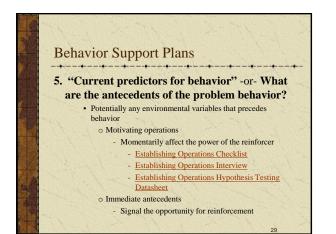
  - What are some examples of behavior that would be annoying, but would not require a BSP?
     What are some examples of behavior effects that would be considered to "impede" learning?
  - As a result of his striking/pushing Jimmy misses instruction (school rules include time out, removal from the classroom, suspension as consequences for aggression). Other students' learning is affected by Jimmy's behavior

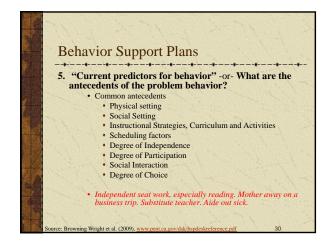
### **Behavior Support Plans**

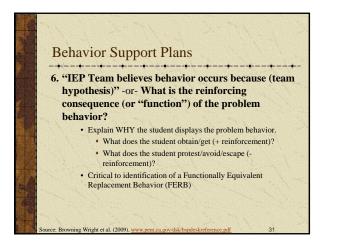
Browning Wright et al. (2009). www.pent.ca.gov/dsk

- 3. "Team estimate of current severity of behavior problem: □Extreme □Serious ØModerate □Needing attention"
  - Is this a "Serious Behavior" Problem?
  - Jimmy's behavior is not considered assaultive. No injury has ever resulted from his hitting behaviors.









6. "IEP Team believes behavior occurs because (team hypothesis)" -or- What is the reinforcing consequence (or "function") of the problem behavior?

 The function is a conclusion about sustaining variables and how the consequence of the behavior is related to the antecedents (ABC).

· Jimmy obtains the positive reinforcement of adult attention.

See <u>Anecdotal Behavioral Observations</u> sheet

 All behavior is purposeful. When a behavior's purpose is understood, alternative FERB(s) can be identified and taught.

#### **Behavior Support Plans**

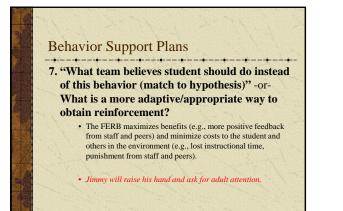
ing Wright et al. (2009).

ng Wright et al. (2009). www.pent.ca.

7. "What team believes student should do instead of this behavior (match to hypothesis)" -or-What is a more adaptive/appropriate way to obtain reinforcement?
• FERB must be identified, taught, and/or reinforced to allow the

student's need to be met in an acceptable manner.

- The FERB is a positive alternative that allows the student to obtain the function that the problem behavior.
- o Student either obtains/gets something or
- protest/avoid/escapes something in a manner that is acceptable in the environment.



e: Browning Wright et al. (2009). www.pent.ca.gov/dsk/bspdeskre

8. "What supports the student using the problem behavior (in environment, missing in environment, or instruction)" -or- How does the presence or absence of certain events motivate/prompt/cue behavior? What is missing in the environment/curriculum or what is in the environment/curriculum that needs changing?

Logically connect antecedents (item 5) to behavior

 How the environment currently sets the student up for
failure.

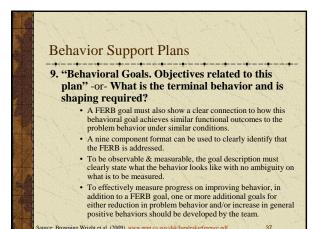
#### **Behavior Support Plans**

ing Wright et al. (2009).

ing Wright et al. (2009).

8. "What supports the student using the problem behavior (in environment, missing in environment, or instruction)" -or- How does the presence or absence of certain events motivate/prompt/cue behavior? What is missing in the environment/curriculum or what is in the environment/curriculum that needs changing?
This lays the groundwork for what will be proposed in the "Environmental structure..." section
Which will suggest how we will set the student up for success.

 Jimmy has dyslexia. His mother just got a promotion and is frequently away on business. He loves adult attention. Has learned that aggressive gestures result in immediate teacher attention.



9. "Behavioral Goals. Objectives related to this plan" -or-Elements of a FERB goal

- By when? (date of the next planned Behavior Plan review).
   When? (tradactive provided in the second planned behavior plannd behavior plannd behavior planned behavior planned behavior pl
- Who? <u>(student's name)</u>. Instead of what problem behavior? <u>(objective/measurable problem</u> behavior).
- For the purpose of what? <u>(function of the problem behavior)</u>. Will do what? <u>(FERB)</u>.
- For the purpose of what? (repeat function of the problem behavior).
- Under what contingent conditions? <u>(conditions when FERB will</u> be used instead of the problem behavior).
- At what level of proficiency? (how the behavior will be performed, with what degree of success).
- As measured by whom and how measured? <u>(who will collect data</u> and how will it be collected) .

# **Behavior Support Plans**

ght et al. (2009).

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9. "Behavioral Goals. Objectives related to this plan" - or- Elements of a FERB goal
1. By when? <u>May 1, 2013</u>,
2. Who? <u>Jimmy</u>,
3. Instead of what problem behavior? <u>instead if touching others</u>
4. For the purpose of what? <u>to obtain adult attention</u>,
5. Will do what? <u>will request adult attention by raising his hand</u>
6. For the purpose of what? <u>to obtain positive reinforcement</u>
7. Under what contingent conditions? <u>during independent seatwork activities</u>,
8. At what level of proficiency? <u>85% of the time</u>,
9. As measured by whom and how measured? <u>as measured by</u>
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As measured by whom and now measured: <u>as measured by</u> <u>teacher collected frequency data</u>. owning Wright et al. (2009). www.pentca.gov/ds/bspdeskreference.pdf 39

- 9. "Behavioral Goals. Objectives related to this plan" -or- Elements of a reduction in problem behavior goal
  - 1. By when? (date of the next planned Behavior Plan review) .
  - 2. Who? (student's name) .
  - 3. Will stop/decrease doing what? <u>(objective/measurable problem</u> <u>behavior)</u>.
  - 4. Under what contingent conditions? <u>(conditions when the problem behavior has been observed)</u>.
  - 5. At what level of proficiency? (how the problem behavior will be reduced/stopped, with what degree of success).
  - 6. As measured by whom and how measured? <u>(who will collect</u> <u>data and how will it be collected)</u>. wring Wright et al. (2009), www.pentca.gov/dsk/bspdeskreference.pdf
     40

# Behavior Support Plans

- 10."Interventions" -or- What are the elements of the BSP?
  - a. "To achieve this outcome, both teaching of new alternative behavior and reinforcement is needed □Yes ☑No"
    - Teaching a new behavior (a skill deficit exists).
    - Teaching a rule for the replacement behavior (how to obtain reinforcement).
  - b. "To achieve this outcome, reinforcement of alternative behavior alone is emphasized (no new teaching) ØYes □No"
    - Teaching a new behavior not necessary (the replacement
    - behavior exists, but is displayed at a low rate/frequency).
    - All that needs to happen is teaching a rule for the replacement behavior (how to obtain reinforcement).
  - ning Wright et al. (2009). www.pent.ca.gov/dsk/bspdeskreference.pdf 4'

#### **Behavior Support Plans**

- 10. "Interventions" -or- What are the elements of the BSP?
  - c. "To achieve this outcome environmental supports are needed ☑Yes □No"

    - Environmental adjustments are needed.
       We need to do a better job of setting the study
    - We need to do a better job of setting the student up for success.
  - - · Curriculum adjustments are needed.
    - We need to do a better job matching the curriculum to the student's present levels of functioning to better ensure success.

- 11. "Teaching strategies and necessary curriculum or materials for new behavior instruction" -or- How to teach/prompt the FERB?
- \* Developing new ways to obtain reinforcement.
- \* What new skills need to be taught?

ing Wright et al. (2009). www.pent

- \* What materials are needed to teach the FERB?
- \* What is the rule for obtaining reinforcement?
- # How the FERB will be systematically taught?

#### Behavior Support Plans

- 11."Teaching strategies and necessary curriculum or materials for new behavior instruction" -or-How to teach/prompt the FERB?
- How to teach/prompt the FERB?
   # Hand raising behaviors are currently seen, but at a low rate/frequency. A contingency contract will be developed with Jimmy regarding what will happen if he raises his hand during seatwork (how reinforcing consequences attention will be obtained) and what will happen if he touches another student during independent seatwork (how reinforcing consequences attention will be removed). Role play facilitated by Ms. Psychologist will be used to demonstrate for Jimmy how the contract will work and to specify the rule of obtaining reinforcement.

## Behavior Support Plans

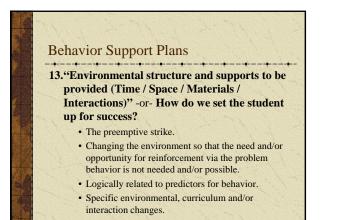
Wright et al. (2009). www.pent.ca.

12."By whom?" "How frequent?" -or- Who is responsible for teaching and how frequently will such occur?

Ms. Psychologist will develop the contingency contract and role play with Jimmy how it will be implemented over the course of two counseling sessions.

# Manifestation Determination Behavior Support Plans

ning Wright et al. (2009)



Browning Wright et al. (2009). www

13."Environmental structure and supports to be provided (Time / Space / Materials / Interactions)" -or- How do we set the student up for success?

> Resource teacher to consult regarding the appropriate reading level for Jimmy. Minimize independent seat work. Parents to inform staff of all business trips (which will prompt special time with teacher upon arrival at school). Principal or Psychologist to greet Jimmy and provide special attention on days Mrs. Teacher is absent. Mrs. Teacher (or Principal/Psychologist) will provide special attention at the start of any school day during which Ms. Aide is absent.

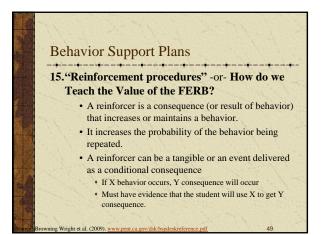
#### Behavior Support Plans

ning Wright et al. (2009). w

ng Wright et al. (2009). www.pent.ca.gov/dsk/

14. "Who will establish?" "Who will monitor?" or- Who is responsible for making environmental adjustments and who will monitor these changes?

Mrs. Teacher will initiate the antecedent adjustments. Ms. Psychologist will monitor implementation of procedures designed to set Jimmy up for success.



15. "Reinforcement procedures" -or- How do we Teach the Value of the FERB?

- Elements of appropriate reinforcement procedures
  - a. Specifically stated
    What the student will receive (e.g., verbal praise, NOT be positive during interactions).
    b. Contingently given

• If X behavior occurs, then Y reinforcer (e.g., token/point) is given

- c. Effectiveness Evidence There is evidence that this reinforcer has frequently been sought by the student
- -or-There is current evidence that the student will actively seek this potential reinforcer.

#### **Behavior Support Plans**

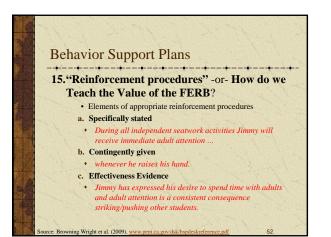
ing Wright et al. (2009)

15."Reinforcement procedures" -or- How do we Teach the Value of the FERB?

- Elements of appropriate reinforcement procedures (continued)
  - d. Choice-within-Variety

ng Wright et al. (2009).

- · Two or more reinforcers for student selection are specified. e. Immediacy/Contingency
- Reinforcer(s) are delivered immediately after the desired behavior(s) and are clearly connected to the FERB.



15. "Reinforcement procedures" -or- How do we Teach the Value of the FERB? • Elements of appropriate reinforcement procedures

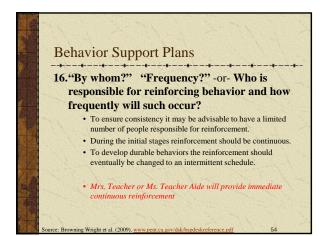
d. Choice-within-Variety

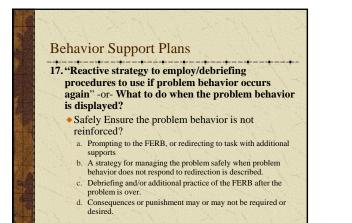
Adult attention will include verbal recognition ("thank you for raising your hand") and, as soon as possible, the physical presence of an adult at his desk. After 5 successive hand raises (without touching another student) he will be allowed to select an reward from a reinforcement menu (which will include a range of options for obtaining attention, e.g., eating lunch with the teacher).

#### e. Immediacy/Contingency

Browning Wright et al. (2009). www.pent.ca.gov/dsk/

Adults will carefully monitor Jimmy for hand raising behavior and immediately reinforce him for raising his hand. Jimmy will be taught that hand raising is an effective way to obtain adult attention.





17."Reactive strategy to employ/debriefing procedures to use if problem behavior occurs again" -or- What to do when the problem behavior is displayed?

> If Jimmy touches another student during independent seatwork, he will be prompted via a visual cue to raise his hand. If he raises his hand he will be given adult attention. If he continues to touch the other student he will be sent to time out. Though out this process adult attention (e.g., eye contact) will be minimized.

#### Behavior Support Plans

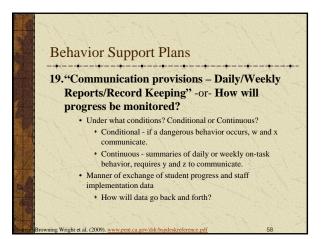
Wright et al. (2009). wy

18. "Personnel" -or- Who is responsible for responding to the problem behavior?

- Use of physical restraints must be by SELPA trained personnel and should be focused on student safety.
- How would Jimmy's plan be modified if his behavior represented a threat to the physical safety of other students?

Manifestation Determination Behavior Support Plans

ng Wright et al. (2009).



**19.**"Communication provisions – Daily/Weekly Reports/Record Keeping" -or- How will progress be monitored?

 Content of data to exchange about student progress and staff implementation

Include what data to exchange, under which conditions,

and what response to that data should occur. • Two-way communication is critical.

· Communication section must include monitoring of student mastery of the FERB.

## **Behavior Support Plans**

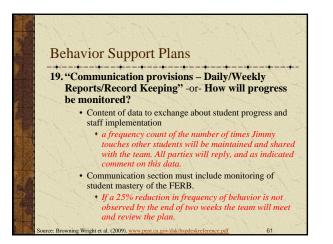
ning Wright et al. (2009). w

19."Communication provisions - Daily/Weekly Reports/Record Keeping" -or- How will progress be monitored?

> • Under what conditions? Conditional or Continuous? • On a weekly basis,

- · Manner of exchange of student progress and staff implementation data
  - via email,...

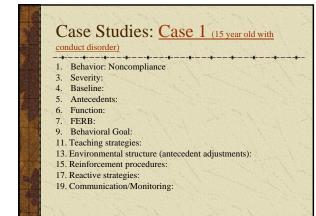
ing Wright et al. (2009).



Browning Wright et al. (2009). wv

20."Between:" "Frequency?" -or- Who will monitor progress and how frequently will data be shared?

- Who will participate in exchanging information?
- Reciprocally exchanging information to monitor progress. Different communication partners (exchange dyads) may require different communication content.
- Frequency of exchange. Can be time referenced, e.g., each day, each week, or can be conditional, e.g., if X behavior, Y communication exchange occurs.



#### Case Studies: Case 2 (11 year old with ADHD) · Behavior: Out of seat. Standing up and walking around the classroom. Severity: Moderate Baseline: MITS = 75% Antecedents: Morning circle time, seatwork (LA & M) Function: Escape/avoid non-preferred activities FERB:

- # Behavioral Goal:
- Teaching strategies:
- Environmental structure (antecedent adjustments): Reinforcement procedures:
- Reactive strategies:
- Communication/Monitoring:

# Case Studies: Case 3 (8 year old, ED, bipolar)

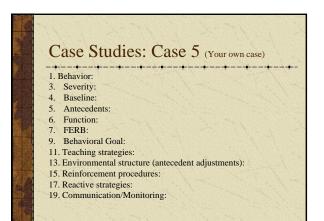
- Behavior: Spitting. At another student, staff member, or the ground.
- Severity: Moderate

- Baseline: Frequency = average of 2.3 per-day
   Antecedents: Morning circle time, seatwork (LA & M)
   Function: Obtain attention and escape/avoid non-preferred activities.
- FERB:
- Behavioral Goal: Teaching strategies:
- Environmental structure (antecedent adjustments):
- Reinforcement procedures:
- Reactive strategies:
- Communication/Monitoring:

#### Case Studies: Case 4 (13 year old, SH, moderate ID) -----

- Behavior: Self injury. Look away for instructional materials, close eyes, rocking in seat, leading to slapping of face 2+ times hard enough to leave a red mark and/or banging head on table. Redirections may lead to hit/pinch/scratching of staff and dropping to the floor

- Severity: ????
  Baseline: Frequency = average of 7 slaps/bangs per-day
- Antecedents: Asked to initiate/complete seatwork
   Function: Obtain escape/avoid non-preferred activities.
- FERB :
- Behavioral Goal:
- Teaching strategies:Environmental structure (antecedent adjustments):
- Reinforcement procedures :
   Reactive strategies:
- -Communication/Monitoring :



# Next 2 Weeks

\* Next Week

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- Legal and Ethical Issues
   Quiz
- **#** Finals Week
  - •Turn in BIP evaluation data (5 points)
  - Turn in any FBA revision
  - •Turn in any BIP revision