


Functional Assessment of Behavior
EDS 240
Philosophical, Legal and Ethical Issues (Quiz)

Stephen E. Brock, Ph.D., NCSP
California State University, Sacramento



Guiding Philosophy¹

- ✘ Behavior is communicative and goal directed.
- ✘ Settings and environments should be able to meet a student's needs before behavioral interventions are used.
 - ◆ Behavioral interventions should not be used to force conformity within inappropriate settings.
- ✘ The primary goal of any classroom is to educate and teach effective interpersonal skills, not to manage or suppress behavior.

¹Adapted from Wright, D. B., & Gorman, H. B. (1994). *Positive intervention for serious behavior problems*. Sacramento, CA: Resources in Special Education.

Guiding Philosophy¹

- ✘ Behavioral intervention should consider student developmental level and chronological age.
- ✘ Behavior intervention plans should . . .
 - ◆ be developed collaboratively.
 - ◆ be efficient and minimally intrusive in terms of time, labor, and complexity.
 - ◆ focus on teaching appropriate behavior to replace maladaptive behavior.

¹Adapted from Wright, D. B., & Gorman, H. B. (1994). *Positive intervention for serious behavior problems*. Sacramento, CA: Resources in Special Education.

Guiding Philosophy

✧ **Activity**

- ◆ In your own words, describe with each element of this guiding philosophy means to you.
AND/OR
- ◆ Note implications of the element for school psychologists.

Ethical Issues in Behavior Intervention¹

1. Interventions should be constructive and proactive rather than suppressive and reactive.
2. The primary positive gain should be for the student with the serious behavior problem.
3. Interventions should provide both immediate and long-term benefits for the student.
4. As a result of implementing the behavioral intervention plan, the student should have the potential for increased independence and access to more activities of interest.
5. Emergency procedures should protect the safety and personal dignity of all parties.

¹From *Positive Interventions for Serious Behavior Problems* by D. Browning Wright and H. B. Gurman. Sacramento, CA: California Department of Education, 1998

Ethical Issues in Behavior Intervention¹

6. Behavioral goals that are developed as a result of the functional assessment should be reasonable and attainable for the student, and the IEP team should be able to implement them within the context of meaningful instructional activities.
7. Any changes required to provide a meaningful, accessible, and appropriate curriculum and environment should be made before an attempt is made to directly modify the student's behavior.
8. Emergency procedures should be applied only when safety requires them, and they must not be used as either consequence of punishment or in lieu of a systematic positive behavioral intervention plan.

¹From *Positive Interventions for Serious Behavior Problems* by D. Browning Wright and H. B. Gurman. Sacramento, CA: California Department of Education, 1998

**Ethical Issues
in Behavior Intervention**

✧ Activity

- ◆ In your own words, describe with each element of this guiding philosophy means to you.
AND/OR
- ◆ Note implications of the element for school psychologists.

**Legal and Legislative History of Behavior
Intervention in California Schools**

1972-73 California laws left the decision on the use of aversive up to professionals. However, institutional and care facilities began to address client's rights.

1977 Legislation introduced by Assembly Member Gary Hart initiated efforts to address the use of aversive procedures in education.

1978 Draft guidelines were developed.

1979 CDE did not back the guidelines and the State Board of Education elected not to adopt the guidelines. It did, however, release a policy statement alerting school districts of their potential tort liability if they did not treat their students with disabilities carefully.

1987 A child dies in a private facility during a behavioral intervention. As a result, new anti-aversive legislation was drafted. The bill died when issues of expense and local control could not be overcome.

**Legal and Legislative History of Behavior
Intervention in California Schools**

1990 Advisory Commission on Special Education sponsored an effort that ultimately led to development of the Hughes Bill (Assembly Bill 2586). This bill was signed by Gov. Wilson on September 12, 1990

1992 The final version of the regulations were adopted by the State Board of Education in September 1992.

1993 Implementation of the regulations for how to respond to the special education student who displays a "serious behavior problem" become effective on May 20, 1993.

1996 Legislation amended to specify that a "serious behavior problem" includes "pervasive and maladaptive" behaviors "for which instructional/behavioral approaches specified in the student's IEP are found to be ineffective."

2014 Repeal of the Hughes Bill. AB 86 now requires behavior interventions for special education students to align more closely with federal law (IDEA).

Legal and Legislative History of Behavior Intervention in California Schools

2014 • Repeal of the Hughes Bill.
 AB86 • Requires behavior interventions for special education students to align more closely with federal law (IDEA).

- School districts are no longer required to conduct FAA and develop Hughes Bill BIPs, the now simply need to follow federal law.
- Emergency interventions may not be used in lieu of BIP. They can be used only "to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm" to the student or others, and that "cannot be immediately prevented" by a lesser restrictive response.
- Continues to prohibit certain emergency interventions.
- School districts must still notify parents or guardians of use of emergency interventions within one school day.
- Must also immediately complete a "behavior emergency report."

Legal and Legislative History of Behavior Intervention in California Schools

2014 • School districts must schedule an IEP within two school days, when a student does not have a BIP in place. The team must review the behavior emergency report and determine the need for a functional assessment and an interim behavior plan.
 AB86

- Further, when a student has a BIP, the team must determine the need to modify the existing BIP when it involves previously unseen serious behavior problems or ineffective behavior interventions
- Behavior Intervention Case Manager eliminated. Requires the Superintendent of public instruction to explore whether current teacher credentialing requirements include sufficient training in appropriate behavior interventions.
- Further, a district may, but is not required to, use a Board Certified Behavior Analyst (BCBA) for behavioral assessment and behavior intervention services

Functional Behavioral Assessment (FBA) Under Federal Law
 34 CFR Part 300 § 300.530

✳ Designed to address behavior violations so that they do not recur [§300.530 (d)(1)(ii)].

- "Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur."

✳ Appropriate for any student who . . .

- Is removed from current placement for 10 days in the same school year [§300.530(b)(2)] (10 **cumulative** days). – **OR** –
- Experiences disciplinary changes in placement that exceed 10 **consecutive** days [§300.530(c)].

Functional Behavioral Assessment (FBA) Under Federal Law
 34 CFR Part 300 § 300.530

✳ **Special Circumstances**

- School personnel may remove from current placement to an interim alternative educational setting (for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability), if the child
 - ✓ Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function;
 - ✓ Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
 - ✓ Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function [§300.530(g)].

Functional Behavioral Assessment (FBA) Under Federal Law
 34 CFR Part 300 § 300.324

✳ **IDEA 2004 requires**

- consideration of “special factors” including the use of **positive behavioral interventions and supports for the student whose behavior impedes his or her learning or the learning of others** [§300.324 (2)(i)].
- participation of a regular education teacher as a member of the IEP team to help develop appropriate positive behavioral interventions and supports [§300.324 (3)(i)].

Functional Behavioral Assessment (FBA) Under Federal Law
 34 CFR Part 300 § 300.704

✳ Under IDEIA 2004 states may set aside some of their federal funds to assist LEAs in providing positive behavioral interventions and supports and mental health services for children with disabilities [§300.704 (b) (4)(iii)].

Functional Behavioral Assessment (FBA) Under Federal Law
34 CFR Part 300 § 300.530

✘ **Assessment procedures not prescribed.**

- ◆ Data Sources: Not identified.
- ◆ Behavioral Observation Frequency: Not specified.
- ◆ Assessment Roles: Not prescribed.

✘ Although not highly regulated, IDEA '04 had suggested that..

- ◆ data sources could be determined by the IEP team based on student and may include record review, interview, and observation.
- ◆ behaviors may be observed only once or infrequently.

✘ Assessment roles were never prescribed.

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 201?)

✘ **Behavior Emergency**

- ◆ A serious behavior not previously observed and for which a behavior intervention plan has not been developed.
- ◆ The behavior poses a clear and present danger of serious physical harm to the student or others.
- ◆ Requires an emergency physical intervention to control the behavior and prevent further damage.

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 201?)

✘ **Emergency Interventions**

- ◆ Implemented only by qualified/trained personnel.
- ◆ Used no longer than is necessary to obtain control and ensure safety.
- ◆ Not used as a punishment nor a substitute for treatment.
- ◆ **Interventions must not include . . .**
 - Locked seclusion.
 - **Device, materials or objects that simultaneously immobilizes all four extremities** (prone containment allowed).
 - An amount of force that exceeds what is reasonable and necessary.

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 201?)

✦ **Emergency Interventions**

- ◆ Interventions may include . . .
 - Management of Assaultive Behavior (MAB).
 - Crisis Prevention Intervention (CPI).
- ◆ Interventions require . . .
 - Caregivers be notified of the intervention within one (1) school day.
 - A “Behavioral Emergency Report” is written and IEP meeting scheduled within two (2) days.
 - Federal law would require that the need for FBA/BIP be considered

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 201?)

✦ **Prohibited Techniques**

- ◆ Any intervention that causes, or may cause, physical pain.
- ◆ Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in the student’s face.
- ◆ An intervention that causes, or may cause, the student to be subject to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.
- ◆ Physical intimidation or threats given verbally, physically, or through body language.

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 201?)

✦ **Prohibited Techniques**

- ◆ Restrictive interventions that employ a device, or material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment (**prone containment may be used by trained personnel as a limited emergency intervention**).
- ◆ Locked seclusion (**unless the facility is licensed or permitted by the state to use a locked room**).
- ◆ Any intervention that precludes adequate supervision of the student.
- ◆ Any intervention that deprives the student of one or more of his or her senses.

Behavioral Intervention Under State Law
California Code of Regulations, Title 5, Article 5, Sec. 3052
September 12, 1990 (Amended in 1996, 2017?)

✦ **Acceptable Responses to Problem Behavior**

- ◆ The **behavior is ignored**, but not the individual.
- ◆ Verbal, or verbal and physical, **redirection** to another activity.
- ◆ Providing **feedback** (e.g., "You are talking too loudly").
- ◆ **Acknowledging the message** of the behavior (e.g., "You are having a hard time with your work").
- ◆ **Brief physical prompts** to interrupt or prevent aggression, self-abuse, or property destruction.

Final chance to turn in assignments

✦ **December 14, 2016, at 9:00am**

- BIP evaluation data is due
- Any FBA revisions are due (for extra credit)
- Any BIP revisions are due (for extra credit)

Quiz

✦ Take ten minutes to complete the quiz to be passed out by the instructor.

✦ Use the quiz as an opportunity to assess your understanding of the material.
