

## **What We Say To Parents about Behavior Plans and FBAs**

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With the encouragement of the Pennsylvania Department of Education ("PDE"), most Pennsylvania school districts issue Individualized Education Programs ("IEP") in which parents are advised that if a student exhibits behaviors that impede his or her education (or that of others), then an "IEP team must develop a Positive Behavior Support Plan that is based on a functional assessment of behavior ...." PDE goes on to suggest that the "clear measurable plan" can be in the Goals and Specially Designed Instruction section of the IEP, or in the Positive Behavior Support Plan if this is a separate document that is attached to the IEP. PDE is wise to guide districts toward imbedding behavior goals and interventions in the fabric of the IEP. But there are two reasons to believe that it is not accurate to say that any behaviors that interfere with learning always compel the development of a Behavior Plan based on a Functional Behavioral Assessment ("FBA").

The first reason is that no statute or regulation has that requirement. The statute and regulations require an FBA and a Behavior Plan in certain disciplinary situations. Also, the statute and regulations say that the IEP must consider the use of positive behavior interventions and support to address the behavior when a child's behavior impedes his/her/others' learning. The law does not say that there must always be a Behavior Plan based on an FBA whenever there is interfering behavior.

The second reason is that a federal court in Pennsylvania has recently confirmed that "Although a functional behavioral analysis could arguably be performed by a school district as a matter of good practice, the Individual with Disabilities Education Act ("IDEA") only requires such analysis when a child ... has an IEP in place" and then is subjected to the disciplinary change in placement. The Court agreed that "the presence of any problematic behavior does not automatically require a functional behavior analysis under the law."

Good IEPs will often have special behavioral instruction and support - along with special academic instruction and support. Behavioral components in IEPs should routinely be considered. However, the statement - which Pennsylvania school districts routinely make to parents - that there must always be an FBA and a Behavior Plan when the student exhibits interfering behaviors, is not backed by the law.

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