



## **Recognize when back-to-school behaviors warrant reevaluation IEP, potential FBA**

With students back in class after a lengthy summer break, unwanted behaviors or misconduct may creep in as they transition back into their school routines.

In *Bellflower Unified School District*, [76 IDELR 111](#) (SEA CA 01/31/20), where the district knew about the child's escalated behavior from the start of the school year, the administrative law judge found that the district shouldn't have waited until mid-November to propose an assessment plan.

While the behavior might be caused by the student's transition, Jennifer Baldassari, an attorney at Lozano Smith in Walnut Creek, Calif., said districts should look at the behavior through the lens of [child find](#). She shared tips for IEP teams considering whether back-to-school behaviors necessitate a reevaluation or a functional behavioral assessment.

### **Red flags**

Behaviors that are persistent, significantly disruptive, and impact the learning and safety of the student and others would trigger a reevaluation of a student's existing IEP, said Brandy Hilliard, director of special education and division 504 administrator at Page County Public Schools in Luray, Va.

Hilliard said these behaviors tend to be frequent, intense, and/or sustained over time. These behaviors can look like:

- Elopement, or leaving the instructional setting without permission;
- Aggressive tantrums, which may involve yelling, throwing objects, or prolonged emotional outbursts;
- Physical aggression toward peers or staff, such as hitting, biting, or kicking;
- Self-injurious behaviors, including head-banging or scratching;
- Chronic disruptive behaviors that prevent the student or others from engaging in instruction; and
- An apparent inability to engage in or retain learning due to behavioral interference.

Baldassari also added some other signs to this list. She said new behaviors that have not been seen before, new or worse mental health issues such as self-harming, crying, and frequent head down on the desk, and behavioral supports that are no longer working can indicate the need for reevaluation.

### **Attempt interventions**

The IDEA requires that the IEP team, in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior. [34 CFR 300.324](#) (a)(2)(i).

Start the student with [Tier 1](#) supports, which consist of schoolwide expectations, routines, and positive reinforcement through PBIS, said Hilliard. If that doesn't work, then districts can try Tier 2 interventions consisting of targeted supports such as check-in and check-out, social skills groups, and progress monitoring for students with emerging needs, Hilliard said. Classroom strategies such as adjusting instruction, seating, reinforcement, and using Universal Design for Learning to increase engagement and reduce disruption can address misconduct, she said. Additionally, districts can also try problem-solving teams to review behavior concerns and recommendations before considering special education, Hilliard said.

"These strategies ensure early support in the least restrictive environment, promote data-informed decisions, and align with IDEA's early intervening services," said Hilliard.

However, Baldassari said districts should document the type of intervention used and its effectiveness to determine if the student necessitates something more than interventions, triggering reevaluation.

### **Consider IEP, FBA, BIP**

Before conducting a reevaluation, be sure to have the case manager review the student's IEP to determine if the supports are being implemented with fidelity and to verify its effectiveness, said Baldassari. Then, determine if there is a significant change in behavior or if the behavior has resulted in disciplinary removals approaching 10 days, she added.

Monitor and document the student's misconduct and interventions used to help curb the behavior, Baldassari said. If behaviors persist, reevaluate to avoid denial-of-FAPE claims from ignoring the child find obligation, said Baldassari.

"A defensible time frame may be 30 days following the start of school to give the district time to review the IEP and monitor the behavior or general education interventions used," Baldassari said. *See Questions and Answers on Response to Intervention (RTI) and Early Intervening Servs. (EIS)*, [47 IDELR 196](#) (OSERS 2007). Baldassari said that if there is a change in behavior or severity, districts should issue an assessment plan.

IEP teams should note that a [functional behavioral assessment](#) conducted independently of a reevaluation might be necessary if a behavior impedes a student's ability to learn, and the behavior can be addressed through a [behavioral intervention plan](#), said Baldassari.

"However, if the behavior actually suggests a worsening of a disability or new disability like a new mental health need, then a comprehensive reevaluation that includes an FBA may be the most conservative approach," Baldassari said.

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