

**MISBEHAVIOR FINDINGS ON TRIAL:
IDEA '97 Disciplinary Provisions for
Manifestation Tests (MT's)
Behavioral Intervention Plans (BIPs)
and Functional Behavioral Assessments (FBAs)**

I. Legal Mandates and Tests for Compliance

Statutory Provisions The statutory provisions that have potential impact or are arguably relevant in this area include the following:

A. The general “findings” section.

1. Section 601 (c) FINDINGS.-The Congress finds the following:

“(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of insuring a quality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.”
(emphasis added)

2. General Findings Section 601 (c)

“(4) However, the implementation of this Act has been impeded by low exceptions, and in insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.”

B. Definition Section

Section 602 (3) CHILD WITH A DISABILITY -

“(A) IN GENERAL-The term “child with a disability” means a child-

- (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (herein after referred to as “emotional disturbance”), . . .”

C. State Obligation

1. Section 612

(A) “IN GENERAL. A State is eligible for assistance under this part for a fiscal year if the states demonstrates to the satisfaction of the secretary that the state has in effect policies and procedures to insure that it meets each of the following conditions:

(1) FREE APPROPRIATE PUBLIC EDUCATION- “

“(A) IN GENERAL-A free appropriate public education is available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.”(emphasis added)

2. Section 612 (a) (22) SUSPENSION AND EXPULSION RATES.-

(A) IN GENERAL-The State educational agency examines data to determine if significant discrepancies are occurring and the rate of long term suspensions and expulsions of children with disabilities-

(i) among local education agencies in this state; or

(ii) compared to such rates for non-disabled children within such agencies.

(B) REVIEW AND REVISION OF POLICIES.- If such discrepancies are occurring, the state educational agency reviews and, if appropriate, revises (or requires the affected state or local educational agency to revise (its policies, procedures, and practices relating the development and implementation of IEP’s, the use of behavioral interventions, and procedural safeguards, to insure that such policies, procedures and practices comply with this Act.” (emphasis added)

D. Basic program elements

1. Assessment Section 614 (b) (2) CONDUCT OF EVALUATION.- In conducting the evaluation, the local educational agency shall-

(A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child’s individualized educational program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;

(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

- (C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
2. ADDITIONAL REQUIREMENTS-Each local educational agency shall ensure that-
- “(A) tests and other evaluation materials used to assess a child under this section -
 - (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; and
 - (ii) are provided and administered in the child’s native language or other mode of communication, unless it is clearly not feasible to do so; and
 - (B) any standardized tests that are given to that child -
 - (i) have been validated for the specific purpose for which they are used;
 - (ii) are administered by trained and knowledgeable personnel; and
 - (iii) are administered in accordance with any instructions provided by the producer of such tests;
 - (C) the child is assessed in all areas of suspected disability; and
 - (D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

E. The IEP Section

1. Section 614 (d) (1) (A) The term “individualized education program” or “IEP” means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes -
- (i) a statement of the child’s present levels of educational performance, including -
 - (I) how the child’s disability affects the child’s involvement and progress in the general curriculum’ or . . .
2. Section 614 (d)(3) DEVELOPMENT OF IEP.-
- (B) “CONSIDERATION OF SPECIAL FACTORS.- The IEP Team shall-
- (i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;” (emphasis added)
- It should be noted that this section is a mandatory inclusion for the IEP. The term “shall” is used.

- F. Disciplinary Procedures Section 614 (k) grants school personnel the limited authority to place children with a disability in alternative educational settings.
- 1) Under Section 614 (k) (1) (A) School personnel may order a change in the placement of a child with a disability-
 - (i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities);. . . .
 - 2) Section (B) of that Section requires “Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)-
 - (i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or
 - (ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.
 - 3) In the following section (614 (k)(2)) a hearing officer is given the authority to order a change in placement for a child with a disability if the hearing officer has determined “that maintaining the current placement of such child is substantially likely to result in injury to the child or others;” In discussing that particular requirement, the House of Representatives Committee Report on the Bill (Report 105-95 at page 109) states “The Standard “substantially likely to result in injury to the child or others” codifies the standard established by the Supreme Court in *Honig v. Doe*. The bill requires the impartial hearing officer to consider the appropriateness of the child’s placement and efforts by the school district to minimize the risk of harm in the child’s current placement, including through use of supplementary aids and services. If the school district has failed to provide the child an appropriate placement or to make reasonable efforts to minimize the risk of harm, the appropriate response by an impartial hearing officer is to deny the school district’s request to move the child to an alternative setting and to require the district to provide an appropriate placement and make reasonable efforts to minimize the risk of harm. Thus, it will not be permissible to move a child when the child’s behavior can be addressed in the current placement.”

The House Report goes on to define the term “substantial evidence” as that which is “beyond the preponderance of the evidence standard.” This places a higher than typical burden on school districts to demonstrate that the behavior of the child with the disability is likely to injure others in the classroom or in the educational setting where the behavior is taking place.

G. Manifestation Determination

- 1) In the discussion concerning implementation of the new provisions regarding discipline related changes in placement set forth in IDEA there has been a great deal of argument over the manifestation determination that is required at Section 614 (k)(4) of the Act. Subsection (C) requires that an IEP Team may determine that the behavior of the child was not a manifestation of the child’s disability. Only when the IEP Team
 - “(ii) then determines that-
 - (I) in relationship to the behavior subject to disciplinary action, the child’s IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child’s IEP and placement;
 - (II) the child’s disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
 - (III) the child’s disability did not impair the ability of the child to control the behavior subject to disciplinary action.”
- 2) In discussing this aspect of the Reauthorization Bill, the House of Representatives Committee Report cited above states “The Committee offers the following clarification with respect to the first standard in section 615(k)(4)(C)(ii). This standard recognizes that where there is a relationship between a child’s behavior and the failure to provide or implement an IEP or placement, the IEP Team must conclude that the behavior was a manifestation of the child’s disability.”
- 3) The new emphasis in the Reauthorization Bill on functional behavior assessment, behavioral intervention plans, positive intervention and strategies all leads one to the inescapable conclusion that a district which attempts to implement a disciplinary intervention with a child who has any record or history of a behavioral problem will have an extremely difficult time supporting that disciplinary intervention unless functional assessment, behavioral intervention programs and positive behavioral supports have been tried prior to the discipline.

Regulatory Provisions The federal regulations which interpret the IDEA statute took effect on May 11, 1999.

A. Functional Behavioral Assessment 34 CFR 300.520 (b)(1)

“Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year or commencing a removal that constitutes a change of placement under 300.519, including the action described in paragraph (a)(2) of this section -

- (i) If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph (a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.

B. Behavioral Intervention Plan

1. 34 CFR 300.520(b)(1)(i)(ii), (2), and (c)(1)(2) - When BIPS are needed -

- (b)(1)(i) (see above - functional behavioral assessment)

- (b)(1)(ii) If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.

- (b)(2) As soon as practicable after developing the plan described in paragraph (b)(1)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

- (c)(1) If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child’s current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement under 300.519, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

- (c)(2) If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

2. 34 CFR 300.382(f) - Teacher Preparation - Each state must describe the strategies the State will use to address the needs for preservice and inservice preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel...) have the skills and knowledge necessary to meet the needs of children with disabilities. Specifically... (f) Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others.

3. 34 CFR 300.346(a)(2)(i) Development, Review and Revision of IEP - Consideration of special factors. The IEP team shall - “in the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.”
 4. 34 CFR 300.346(d)(1) Requirement with respect to regular education teacher - The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child’s IEP, including assisting in the determination of “appropriate positive behavioral interventions and strategies for the child...”
 5. 34 CFR 300.146(b) Each state must examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities - among LEAs, and compared to nondisabled children. If discrepancies are occurring, the SEA must review and revise its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions...and ensure compliance with the Act.
 6. 34 CFR 300.24(b)(9)(vi), and 13(v) Related services - (9) Psychological Services includes (vi) assisting in developing positive behavioral intervention strategies; (13) Social work services in schools includes (v) assisting in developing positive behavioral intervention strategies
- C. Manifestation of disability 34 CFR 300.523(c)(2)(i) - the IEP team and other qualified personnel may determine that the behavior of the child was NOT a manifestation of the child’s disability ONLY IF the IEP team and other qualified personnel - (2) determine that ... (i) in relationship to the behavior subject to disciplinary action, the child’s IEP and placement were appropriate and the special education services, supplementary aids and services, AND behavior intervention strategies were provided consistent with the child’s IEP and placement. (emphasis added)

II. Legal Environment

School districts need to be aware of the context in which the evaluation of their efforts to remediate difficult student behaviors would be scrutinized. For many years parents with students with disabilities and their advocates had been frustrated by districts attempts to apply typical disciplinary procedures to students who demonstrate behavioral problems. This is particularly true when the student’s behavioral problems are an integral part of the disability which places them within the protections of the Acts in the first place.

In a memorandum to The Chief State School Officers dated September 19, 1997 Judith E. Heumann, the Assistant Secretary of the Office of Special Education and Rehabilitative Services and Thomas Hehir the Director of the Office of Special Education Programs responded to the following question in the following way...Question?---“Under IDEA do public agencies have a responsibility, as part of the IEP process, to consider a child’s behavior? Answer: Yes. Section 614 (d)(2)(B) requires the IEP team “in the case of a child whose behavior impedes his or her learning or that of others, (to) consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.” In addition, the school districts should take prompt steps to address misconduct when it first appears. Such steps could, in many instances, eliminate the need to take more drastic measures. These measures also could be facilitated through individualized education program (IEP) and placement processes required by IDEA. For example, when misconduct appears, a functional behavioral assessment could be conducted, and determinations could be made as to whether the student’s current program is appropriate and whether the student could benefit from the provision of more specialized instructional and/or related services, such as counseling, psychological services, or social-work services in schools. In addition, training of the teacher in effective use of conflict management and/or behavior management strategies also could be extremely effective. In service training for all personnel who work with the student and, when appropriate, other students, also can be essential in ensuring the successful implementation of the above interventions.”

A responding memo the Chief State School Officers was issued some weeks thereafter by a consortium of parent advocates. That memo reflected comments made by Senator Tom Harkin as part of the Congressional Record (143 Congressional Record Number 62, page S4403, column 3(May 14, 1997)) “My colleague also quotes a parent of a non disabled child who was told by a lawyer that she has no rights when her child’s class is disrupted by a disabled child. I say to that parent she better get a new lawyer. They have a right to a class environment that is safe and conducive to learning. That parent has a right to insist that the schools develop positive behavior approaches and train teachers and provide them with the necessary supports. What they don’t have is the right to kick that disabled kid out of the class just as school systems cannot kick out African-American children when a white child or his parents are uncomfortable around African-Americans.” The authors of the response letter, including Gilhool, Gran, Laski, Boundy, Martin, and Cohen among others, state “Quite simply, in its carefully written and integrated provisions this Act requires that problems of student behavior, ultimately and in anticipatory fashion, be resolved and avoided by using best educational practices and strengthening their education. Punishment

is provided for, but circumscribed by the Act's plain limitations, not by putting children out of school and breaking their connection to education.”

The most recent OSEP memo from Director Thomas Hehir, dated June 16, 1998 (30 IDELR 707), declares positive behavioral supports and interventions are a key initiative as part of IDEA 1997. In response to the suggestion that functional behavioral assessment is not a sufficient mechanism for meeting the needs of students who have behavioral components to their disability, Director Hehir states that “positive behavioral interventions and supports (will) ensure that disabled students can participate fully in classes with their nondisabled peers, and through the IEP process, meaningful measures are undertaken to ensure that children with disabilities do not engage in behaviors that result in disciplinary actions which may prevent their participation in classes with nondisabled peers.

III. Trouble Spots In District Compliance

Implementation of the 1997 Amendments on discipline including functional assessments, behavioral intervention plans, and manifestation determinations remains in the preliminary stages. Full compliance requirements are only now being phased into implementation. We do not as yet have guidance in the way of federal district court or circuit court decisions. At best, there are some LEA/SEA due process decisions that have not yet had the opportunity to work through the appeals process. While we can identify certain “trouble spots” that are brought to us for evaluation by parents and advocates on behalf of eligible students, there is as yet no clear precedent to confirm what the ultimate resolution of these troubling issues will be. Where available, we will provide a reference to the administrative decisions that have been issued concerning the identified problem areas.

- A. Be sure that all administrative, direct service, and resource personnel are familiar with the basic discipline regulations. Given the emphasis that students with disabilities are to be included in the regular curriculum at every possible opportunity, it is imperative that both regular and special education personnel receive this training. Problems are most likely to arise when administrators whose primary responsibility is in the “regular education program” make decisions that impact students who are eligible for special education services. Our primary area of complaints in this area generally arise from actions taken by secondary school regular education principals and vice-principals.
- B. For any child whose educational record demonstrates any entries reflecting a behavioral issue, complete a functional behavioral analysis and incorporate a behavior intervention plan as a “special consideration” in the child’s IEP. In

Neshaminy School District, 29 IDELR 493 (PA 1998), a student with ADHD and a history of behavior problems received no counseling services and lacked a BIP. The hearing officer approved the parent's unilateral placement in this case. In Windsor C-1 School District, 29 IDELR 170 (MO 1998), a six-year old with Asperger's Syndrome failed to receive a BIP as part of the IEP. The District was well-aware of the student's behavior problems. Payment for unilateral placement was ordered here as well. In South Pasadena Unified School District, 28 IDELR 1112 (CA 1998), the IEP of a 16-year old student with a severe emotional disturbance failed to include a BIP notwithstanding the student's repeated misconduct. The District failed to conduct a functional behavior analysis in a timely manner. The hearing officer ruled in favor of the parents. In Independent School District No. 279, OSSEO Area School, 30 IDELR 645 (MN 1999), the District was found to violate FAPE for a 15-year old by failing to conduct an FBA or develop a BIP.

- C. Once a BIP has been established, ensure that it is implemented consistently across all personnel and locations. A principle problem in this area is the resistance of regular educators to implement plans in their classrooms and the failure of special education administrators to apply the behavior program across both regular and special education settings. In Jessieville School District, 28 IDELR 697 (AR 1998), a 14-year old student with learning disabilities received a BIP as part of the IEP, but the District changed how the plan was implemented. The changes to the plan invalidated it and resulted in a District violation. The hearing office required the District to provide training to ALL of its teachers on implementation. In Corpus Christie Independent School District, 30 IDELR 88 (TX 1999), the BIP of a 13-year old student with ADHD was not consistently implemented. "Without consistently implementing the...BIP, the District could not ascertain whether changes to the BIP were called for." The District was ordered to provide compensatory education. In Modesto City School District, 30 IDELR 170 (CA 1998), the BIP for a 16-year old student with autism was not consistently implemented, was at least a year old, and was never reexamined when the student's behavior deteriorated. The student was ordered moved to a neighborhood school as requested by the parent with a new plan to be implemented.
- D. Make sure that at least one individual who participates in the draft of the plan has expertise and credentials in the area of behavior management. See 34 CFR 300.24 (b)(9)(vi), and 13(v) - Related Services - Psychological and Social Work Services in Schools. In Daleville City Board of Education, 28 IDELR 144 (AL 1998), the District was ordered to include a behavior management plan developed by an outside consultant for a fourth-grader with an emotional conflict and ADD. In Board of Education of the City of New York, 28 IDELR

1093 (NY 1998), the District was ordered to hire an experienced professional to design a BIP and provide training to all District staff for an 8-year old with Tourette's Syndrome, ADHD and OC disorder.

- E. Once a FBA and BIP have been completed, be careful to ensure that changes in personnel do not result in the failure to implement the plan. In Lodi Unified School District, 29 IDELR 826 (CA 1998), the District failed to provide alternative counseling after the 20-year old student's primary counselor stopped working for the District. The result was a lack of consistent implementation. The District was ordered to provide one year of compensatory education after the student's eligibility for services expired.
- F. Be aware that increased attention on district compliance is likely to occur in any situation of an individual disciplinary action in excess of 10 days or of cumulative disciplinary actions in excess of 10 days. Certain disability categories will also result in increased attention. These include severe emotional disturbance, any disorder within the autism spectrum, traumatic brain injury, and ADHD. Each of these diagnoses include *by definition* a behavioral component. Thus, if a child falls within one of these categories, an assumption should be made that a FBA and BIP will be required. In Board of Education of the Middle Country Central School District, 28 IDELR 75 (NY 1998), the IEP for a 15-year old student with PDD did not include a BIP. The District was ordered to comply. Several of the other cases cited above also focus on the disability category as mentioned in this section.
- G. Avoid the use of aversive interventions wherever possible. If they must be used, ensure strict and absolute compliance with state-specific regulations. See, for example, WAC 392-172-388 to 398. Many non-public education behavior intervention experts now take the position and will testify that aversives are seldom if ever effective. In Independent School District No. 2310, 28 IDELR 933 (MN 1998), an 8-year old student was placed in restraints. The judge determined the restraints were excessive and may have contributed to the student's behavior deterioration. The District was ordered to provide compensatory education. Be particularly careful in the use of time-out closets, boxes, or carrolls. Any use of these isolation locations will be subject to question.
- H. Prepare BIPs as you would any other goal or objective area. Identify the behavior to be targeted, establish a data baseline demonstrating when, how often, and under what circumstances the behaviors occur, and then draft goals and objectives that are directly related to reducing the targeted behaviors. Maintain specific data on the frequency of occurrence of the behaviors in order

to document whether or not the plan is or is not effective. If the data demonstrates the plan is not effective, call an IEP meeting and change the plan. In Modesto City School District, 30 IDELR 170 (CA 1998), the BIP of a student with autism was deemed inadequate. The plan lacked a description of the targeted behaviors, contained no information on the frequency of the behaviors, or any statement of antecedent events. There was no baseline data, therefore no way to test the effectiveness of the plan.

- I. In completing a functional behavioral assessment, carefully document all of the steps taken. The regulations do not contain a definition or statement of requirements to establish a valid FBA. Professionals in the field of behavior will testify to substantial steps that must be taken in order to make an FBA valid. See the resource material on pages 159-163 of the materials from the 15th Annual Pacific Northwest Institute by this author.

IV. 2001 GAO Study.

The GAO attempted an audit of how frequently “discipline” issues are occurring in middle and secondary schools across the country in 2000/2001. The principal concerns reviewed included;

- 1) What is the incidence and impact of serious student misconduct (drugs, weapons assault, rape, sexual assault and robbery) on schools.
- 2) Is the impact primarily attributed to students with disabilities or to regular education students?
- 3) Are students with disabilities who engage in serious misconduct being disciplined differently and if so, how?
- 4) What is the role IDEA plays in the discipline of disabled students who engage in serious misconduct?

The survey was conducted over 465 middle and high schools on a national basis. It reflected that the most common form of “serious” misconduct was student on student fighting. Complaints on the “more” serious misconduct reviewed by the study were rare. The most common impact of the behavior was the disruption of student learning. There was a higher number of incidents involving special education students (50 incidents per 1000 students for SpEd versus 15 per 1000 regular ed students). The survey indicated that SpEd students are disciplined in the same manner as the regular education students with the most common consequence for both being out-of-school suspensions. The length of the suspension is the same for both groups and few of the children receive services while they are on suspension. The same percentage from each group are expelled and/or placed in alternative educational settings. The majority of the principals in the schools surveyed reported that local

discipline policies rather than IDEA had a greater impact on disciplinary actions. The substantial majority of the principals surveyed reported that IDEA's requirements had either a positive or neutral effect on student discipline and only 20% reported adverse to IDEA's requirements.

The findings reported in the GAO report appear to contradict much of the anecdotal information currently being used to shape public policy via the re-authorization process.

V. Conclusion

- A. Whenever a student has any type of behavioral issue reflected in student records or anecdotally, that student should be considered for a functional behavioral assessment and a positive behavior plan. It is typical to see IEP forms with check off boxes for certain statutory or regulatory requirements. For example, on many IEP's the issue of extended school year is addressed merely by checking a box saying that either it was considered or not considered. In this instance it would be unwise for a district to rely upon a check off box for a functional behavior assessment or behavior intervention plan. This should be a separate category on each IEP, perhaps with its own set of backup records to demonstrate that it was either needed or not needed. If there is a reflection that it is not necessary, that should be documented on the current levels of performance in the IEP.

- B. If a separate behavioral intervention plan is included, it will have to address the underlying function of the behavior. What changes had been made in the curriculum or environment to prevent the behavior from occurring? What teaching is being considered to encourage the child to learn replacement behaviors for those non-functional behaviors that are causing difficulty in the environment? If there are to be consequences for the behaviors, how are they related to the function of the behavior and not the behaviors itself. It would not be wise to substitute an aversive behavioral contract for a functional behavioral assessment or behavioral intervention plan. A behavioral contract is typically nothing more than a contract that says if a student engages in a particular behavior a following consequence or punishment will occur. It does little to analyze why the behavior occurs in the first place and what the function for the behavior might be. It is unlikely that a school district will be able to defend disciplinary actions taken based upon a behavioral contract in light of the language included in section 614(k)(4)(C)(ii)(II) and (iii). Those sections require a determination that "the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action;

and the child's disability did not impair the ability of the child to control that behavior subject to disciplinary action." If the district has not analyzed the behavior and created a plan to deal with it before simply applying a behavioral contract, it is unlikely that the district will be able to meet those two requirements.

Resources:

1. See reference to the 1997 article in paragraph (I) above.
2. The Center for Effective Collaboration at the American Institutes for Research, Washington, D.C. www.AIR-DC.ORG/CECP/CECP.html (202-944-5373)
3. Beach Center on Families and Disability, Positive Behavior Support <http://www.lsi.ukans.edu/beach/pbs.htm>.
4. Institute on Violence and Destructive Behavior, University of Oregon, <http://interact.uoregon.edu/ivdb/ivdb.html>.

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May, 2003