

## Q&A: Functional Behavioral Assessments and Behavioral Intervention Plans

The Minnesota Department of Education (MDE), Division of Compliance and Monitoring has developed this document to provide technical assistance to school districts and parents that have raised questions about the use of a functional behavioral assessment (FBA) and positive behavioral interventions and supports. The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal situation. This document may not include a complete rendition of applicable state and federal law.

### **Question 1: What is a functional behavioral assessment (FBA)?**

**Answer:** An FBA is a process to gather information to assist individualized education program (IEP) teams in developing appropriate and individualized positive behavioral interventions and supports. An FBA's purpose is to determine when and why a student exhibits problem behaviors, what reinforces the problem behavior, and what types of positive behavioral supports and interventions would reduce the negative behaviors and increase the desired behaviors.

**Authority:** Minn. R. 3525.0210, subp. 22.

### **Question 2: What are positive behavioral interventions and supports?**

**Answer:** As defined in Minnesota Statutes, section 125A.0941(d), "positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children appropriate behaviors and skills.

**Authority:** Minn. Stat. §125A.0941(d); *See also* Minn. R. 3525.0850.

### **Question 3: When must a school district obtain parental consent prior to conducting an FBA?**

**Answer:** When a district wishes to conduct an FBA to collect data to assist in meeting a child's individual needs, it must first obtain parental consent as it would for any other special education evaluation or reevaluation. This would include FBAs conducted as part of a special education evaluation or reevaluation and FBAs conducted to develop or modify a behavioral intervention plan for a child. 34 C.F.R § 300.300(a) and 34 C.F.R § 300.300(b). The only exception would be if the FBA is intended to assess the effectiveness of behavioral interventions in the school as a whole and is not focused on the educational and behavioral needs of an individual child. *See* 34 C.F.R § 300.300(d)(1)(ii); Letter to Christiansen, 48 IDELR 161, 107 LRP 45740, OSEP (February 9, 2007).

**Question 4: With the disciplinary changes in the Individuals with Disabilities Education Act (IDEA) 2004 and the 2006 Regulations, when should a school district or charter school consider developing and implementing an FBA and positive behavior intervention plan for a child receiving special education services who is removed from the regular education setting due to a violation of the school district or charter school's disciplinary policy?**

Answer: IDEA 2004 and the 2006 Regulations discuss when FBAs and positive behavior supports should be developed and implemented for a child receiving special education as follows:

1. Title 34, section 300.530(f), of the Code of Federal Regulations specifically requires that an FBA occur when a decision is made to change the educational placement of a child with a disability because of a violation of a code of student conduct and the child's behavior is determined to be a manifestation of the child's disability.
2. Title 34, section 300.530(d), of the Code of Federal Regulations requires that a school district provide an FBA and positive behavioral intervention services "as appropriate" to a child whose placement is changed for disciplinary reasons, and that behavior was not a manifestation of the child's disability.
3. Title 34, section 300.324(a)(2)(i), of the Code of Federal Regulations requires that a child's IEP team consider the use of positive behavioral interventions and supports if the child's behavior is impeding his or her learning or the learning of others. The IEP team may address behavior through IEP goals, special education and related services, and/or program modifications or supports for school personnel to enable the child to advance appropriately toward his or her goals, be involved in and make progress in the general education curriculum and participate in extracurricular and other nonacademic activities.
4. Minnesota Statutes, section 125A.0942, Subd. 6 encourages school districts to establish effective school-wide systems of positive behavior interventions and supports.

Authority: 34 C.F.R. §§ 300.320(a)(4), 300.324(a)(2)(i), 300.530(c)(d)(1)(f)(1); Questions and Answers on Discipline Procedures, OSERS, (June 1, 2009), Answer to Question E-3.