



## Considerations on FBA and BIP Processes, Depth of Analysis and Monitoring

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With additional comments by Jan E. Tomsky, Esq.*

A few of us have written in to PENT seeking further clarifications on FBAs and BIPs. Here are some thoughts you may wish to consider that are responses I have given to PENT Cadre and others who have phoned or written to us. Jan E. Tomsky, attorney at law, has graciously provided her comments below as well.

***Question 1: On the last portion of the FBA Report template: Do we list the IEP team members in attendance, the people who are in agreement with the FBA findings even if they aren't in the IEP team meeting or are not the actual evaluation personnel?***

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**DBW:** The FBA report form (<http://www.pent.ca.gov/frm/fbareport.doc>) is the summary of an assessment. Sometimes multiple people play a role in gathering information, collecting data across multiple days, being interviewed or observed interacting with the student and so forth. The title of this section is “evaluation personnel” not “IEP team members.” This section allows the person completing the form to list all parties that contributed information for hypothesis development. This could include all or some IEP team members, including the parent if they were interviewed in this process. It could have a few individuals, or many. For example, if a previous teacher or school contributed information that was reflected in the report, this is an opportunity to acknowledge their contributions. All referenced people should have their contribution reflected in the body of the report. “Ms. Jones, teacher, collected observation data and met with Mr. Banks, psychologist, to review possible hypotheses.” The last section simply pulls out contributors from the report body that is in the FBA form above this section. “Mr. Banks completed the pathway chart analysis with the IEP team in an earlier meeting and all members agreed the data supports the hypothesis reflected in this report prior to the IEP to develop the BIP.”

This is not, however, the most critical portion of the FBA report. Rather, it can be used to reflect the collaborative process which occurred during the data collection phase.

**JET:** *I agree with DBW. From my perspective, the usefulness of identifying those involved in the evaluation process is to document that data was gathered from a variety of sources across settings.*

**Question 2: I understand we need a signed assessment plan to do an FBA, but do we need parent consent (i.e., a signed form of some sort) just to develop a BIP? For my team, we basically do an FBA every time we write a BIP but it isn't necessarily articulated that way to the parents or in the documentation. What do you recommend?**

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**DBW:** The BIP should be based on an assessment. Best practice is for us to use a Functional Behavioral Assessment because it examines environmental and functional factors that can assist us in determining why the behavior has been resistant to other strategies, including positive behavioral interventions, strategies and supports. Therefore, the parent consent is for the underpinning assessment.

Environmental assessment alone will not give us enough information to form a hypothesis as to why the behavior has been treatment resistant. Therefore, permission for an FBA assessment needs to be gained from the parent prior to BIP development. No BIPs should be developed without parent permission and without considering the purpose or function of the behavior. Look at the history of behavior plans that have gone to hearing or court. It is not legally defensible to have no assessment data, and collecting assessment data requires a parent consent.

But, not all FBAs are created equal. The depth of the assessment necessary to validate a hypothesis is related to the severity of the problem (see below). This requires professional judgment. As districts move more thoroughly into RTI/MTSS with multiple tiers of support, and behavior intervention plans assume their proper place as a tier 3 intervention, this likely will be less of an issue. A BIP is not appropriate for a behavior that is not impeding learning. For lesser behaviors, altering Tier 1 or implementing positive behavioral interventions and supports at Tier 2 can adequately address many behaviors impeding learning. In those situations, we specify goals for the student that reflect the environmental change (tier 1) or the tier 2 selected intervention's progress monitoring method. A manual on effective goal writing is available on PENT (<http://www.pent.ca.gov/dsk/sec9/guidelinesbehgoals.pdf>). Even when "behavior IS impeding learning for a student with an IEP" lesser interventions can be developed that are positive behavioral interventions strategies and supports ([http://www.pent.ca.gov/pos/rti/behimpedinglearning\\_flowchart.pdf](http://www.pent.ca.gov/pos/rti/behimpedinglearning_flowchart.pdf)) and ([http://www.pent.ca.gov/pos/rti/behrti\\_flowchart.pdf](http://www.pent.ca.gov/pos/rti/behrti_flowchart.pdf)).

**JET:** *Federal law (the IDEA and its implementing regulations) does not specifically require that development of a BIP be preceded by formal assessment. In large part this is because, while federal law mandates that a team must address behavior that is impeding learning, there is little in the law to direct how that must be accomplished. However, the comments to the federal regulations do advise that an FBA "typically precedes" the development of positive intervention strategies, and cases throughout the country have found districts liable for failing to conduct an FBA under certain circumstances, but especially where behavioral strategies and environmental supports have proven ineffective. To ensure the best outcomes for the student, and legally, I agree—it is best practice to conduct an FBA prior to developing a BIP.*

### **Question 3: How much FBA data should we collect before developing a BIP?**

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**DBW:** One time behaviors: For behavior that has only occurred once that is a manifestation of the disability, use the form, FBA in disciplinary context. (<http://www.pent.ca.gov/frm/fbasummary.doc>) There is no behavior to go observe, so this “retrospective analysis” will apply a “functional lens” to analyzing the problem and developing a BIP if the conclusion of this analysis is that a BIP, rather than some other approach, should be developed.

On going behaviors: The minimum FBA requirements are reflected in a new handout that is now on the PENT website which was presented at the LRP legal convention on May 4, 2014 (<http://www.pent.ca.gov/frm/rubricfbareport.pdf>). You will notice that the FBA report format covers all necessary items included in this document.

There are occasions where the student’s quality of life now and in the future are being greatly impacted by the severity or duration or frequency of the behavior. For example, as we know, self injurious behavior, especially in students with intellectual disability, can greatly impact the student’s life, impair vocational opportunities and lead to physical injury of the student or others who attempt to stop the behavior. Every behavior consultant, in every state, must decide how deep to assess to “get it right.” A thorough review of medical records, an understanding of medication effects on behavior, interviews with previous implementers and observations in multiple environments may be required to develop confidence that the components of the BIP are of high quality and the accuracy of the function hypothesis is solid. In this situation, the consultant may wish to expand documentation on the data collection process, which essentially expands the FBA report for added documentation. Since it is necessary to perform this depth analysis, the wise consultant will want to document it thoroughly (<http://www.pent.ca.gov/frm/datacollectiondocform.doc>). Additionally, the consultant in severe cases will want to include another optional form, which is the Optional Data Collection During BIP implementation (<http://www.pent.ca.gov/frm/bipdatacollectform.doc>). This provides documentation on frequency of contact between consultant and implementers to support student success.

**JET:** *From a legal perspective, a determination regarding whether sufficient data was collected will vary from case to case. Generally, judges want to be confident that sufficient information was gathered (a number of observations across settings) to support the behaviorist's analysis and recommendations. In one case where a judge concluded that the failure to conduct an FBA denied the student a FAPE, the judge stated that the data needed to be sufficient to "dissect the behavior so as to plan the most effective method of eliminating it."*

#### ***Question 4: Isn't it better just to use narrative paragraphs to describe the results of the FBA to allow more report freedom rather than a FBA Report form?***

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**DBW:** As many attorneys will tell Special Education Directors, writing in paragraphs, rather than using a template, can result in wording that at a later time may prove to be regrettable. The intent of the form template is to keep the summary focused and avoid inclusion of extraneous information (e.g., birth history, parental occupations, histories of incarceration, etc.) that are not necessary to report in the summary of the functional assessment.

Additionally, as consultants are doing more data management, consultations and follow-up interviews, a form template can save consultants a great deal of writing time which can be then used for consultative activities. Additionally, much of the language in the FBA report lifts directly into the behavior plan, thereby shortening the process of FBA findings being reflected in the BIP.

**JET:** *Agreed—but I would add two things. When using a template, please proof it well, as boilerplate language carried from one report onto another (where it isn't applicable) can also be regrettable. And, write in clear, accessible language that will make sense to all team members, including the student's parents.*

#### ***Question 5: Why doesn't PENT recommend different BIP forms to correlate with the severity of the problem behavior?***

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**DBW:** Best practice is for all BIPs to be based on the results of a FBA. There is nothing to leave out for an “early stage” problem. If an IEP team wants to document environmental changes to support the behavior, increase in reinforcement and other positive behavioral interventions strategies and supports, this can be included in the IEP in the form of goals to progress monitor change. No assessment plan is necessary to alter teaching practices in this situation. Specifying exact methodology on how we may alter variable so the student can meet the goal may or may not be necessary.

For very complex problems, the optional forms described above will “expand” the depth to document a more complex analysis occurred. BIPs are when all other interventions for socially mediated behaviors (i.e., the behavior is used to get something or get rid of something) have proven unsuccessful. Our BIP scoring rubric (<http://www.pent.ca.gov/beh/qe/bipscoringrubric.pdf>) allows all BIPs to be evaluated to determine if they are in alignment with the field of behavior analysis. Higher scores on the rubric results in greater behavior change. Evaluating a behavior plan prior to a hearing is aided by having this research validated instrument available (<http://www.pent.ca.gov/hom/research.html>)

**JET:** *Nothing to add here!*