

“FROM PROFANITY TO PHYSICAL AGGRESSION”: ADDRESSING DISCIPLINE WHEN THE STUDENT HAS SPECIAL NEEDS

Presented by:
Cynthia Buechler
Buechler & Associates, P.C.

(512) 322-0588
attorneys@buechlerlaw.com

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- 1. GOOBER QUALIFIES FOR SPECIAL EDUCATION SERVICES UNDER THE ELIGIBILITIES OF OHI FOR ADHD AND SLD IN THE AREA OF WRITTEN EXPRESSION. GOOBER ASSAULTS THE TEACHER AFTER SHE TELLS HIM HE NEEDS TO WORK ON HIS PROJECT. A MDR IS SCHEDULED. AT THE ARD MEETING, THE PARENTS BRING AN OUTSIDE EVALUATION THAT DIAGNOSES GOOBER WITH DEPRESSION AND ANXIETY. WHAT MUST THE ARD COMMITTEE DO?**

The ARD committee needs to consider the outside evaluation and also request to evaluate the student for ED. Additionally, the ARD committee should determine if Goober were to qualify as ED, is the behavior a manifestation of the Goober’s emotional disturbance.

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2. BILLY BOB THREATENED TO KILL ANOTHER STUDENT. AT THE DAEP CONFERENCE, THE PARENT REFERS THE STUDENT TO SPECIAL EDUCATION. DOES THE DISTRICT NEED TO CONDUCT AN MDR? WHAT ACTION MUST THE SCHOOL DISTRICT TAKE?

The school does not need to conduct an MDR. However, the evaluation should be expedited and if the student is still in the DAEP once the evaluation is completed and the school wants to continue the DAEP placement, the school needs to conduct an MDR.

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3. THE ADMINISTRATOR WANTS TO SEND BILLY BOB TO THE DAEP TO COMPLETE 60 "GOOD" DAYS. CAN HE GIVE THAT AS A CONSEQUENCE?

Some students will have difficulty even getting one "good" day. The consequence should be for a specific number of days and if the administrator chooses, allow the student an earlier return for good behavior.

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- 4. BILLY BOB'S BROTHER, JIM BOB IS IN THE PROCESS OF BEING EVALUATED FOR SPECIAL EDUCATION FOR AN EMOTIONAL DISTURBANCE. JIM BOB THREATENED TO KILL THE PRINCIPAL BECAUSE HE SENT BILLY BOB TO THE DAEP. DOES THE DISTRICT NEED TO CONDUCT AN MDR?**

Yes. An MDR needs to be held. The committee will determine if Billy Bob were to qualify for special education for an emotional disturbance, is the behavior a manifestation of the emotional disturbance.

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- 5. SALLY BOB, THE SISTER OF BILLY BOB AND JIM BOB, QUALIFIES FOR SERVICES UNDER THE ELIGIBILITY OF ID AND SPEECH. SHE RECEIVES SERVICES IN THE FUNCTIONAL LIFE SKILLS CLASSROOM. SALLY BOB IS CAUGHT IN THE ACT OF CARNAL KNOWLEDGE IN THE BATHROOM. THE PRINCIPAL WANTS TO SEND HER TO THE DAEP. THE DAEP DOES NOT HAVE COMPARABLE SERVICES OF THE FUNCTIONAL LIFE SKILLS CLASSROOM. CAN SHE BE SENT TO THE DAEP?**

In addition to determining whether the behavior is a manifestation of the disability, the ARD committee must determine whether the disciplinary placement can implement the student's IEP. If it cannot, it is not an appropriate placement.

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6. NICKY CANNON QUALIFIES FOR SERVICES AS OHI FOR ADHD. HE HAS ENGAGED IN CONTINUOUS BEHAVIOR FOR THE LAST TWO YEARS. HE HAS A BIP, BUT THE TEACHERS HAVE NO DATA THAT THEY HAVE IMPLEMENTED IT. YESTERDAY, HE SHOWED A NUDE PIC OF HIMSELF TO THE TEACHER. CAN HE BE SENT TO THE DAEP IF THE BIP WAS NOT IMPLEMENTED?

One of the two questions of an MDR is did the district's failure to implement the IEP cause the behavior? Phrased in a more positive way, did the district implement the IEP? If the district did not implement the IEP, it is prudent to change the consequence from a change of placement and not have the MDR.

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7. YE IS AT THE DAEP. WHILE AT THE DAEP, THE TEACHERS USE A POINT SHEET, RATHER THAN THE BIP. YE ASSAULTS BILLY BOB BECAUSE BILLY BOB WOULDN'T SHARE HIS SKITTLES. THE PRINCIPAL WANTS TO EXPEL HIM FROM THE DAEP. CAN YE BE EXPELLED?

When a student is sent to the DAEP, the DAEP needs to implement the student's IEP, including the BIP. While they can continue to utilize the DAEP point sheet, that must be done in conjunction with the BIP. If the point sheet conflicts with the BIP, the BIP takes precedence. The DAEP must still collect data to show implementation of the BIP.

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8. BILLY BOB IS SUPPOSED TO RECEIVE 230 MINUTES OF INCLUSION SUPPORT PER WEEK, 4, 30 MINUTE SESSIONS OF SOCIAL SKILLS A GRADING PERIOD AND SPECIAL EDUCATION COUNSELING, 30 MINUTES, 5 TIMES A GRADING PERIOD. REGRETTABLY, THE CAMPUS IS SHORT STAFFED AND HE HAS NOT RECEIVED ANY OF THESE SERVICES. BILLY BOB IS CAUGHT VAPING. CAN HE BE SENT TO THE DAEP?

This is a failure to implement the IEP. The school should change the consequence from a change in placement and not have the MDR.

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9. YE QUALIFIES FOR SERVICES AS A STUDENT WITH EMOTIONAL DISTURBANCE. HIS FBA WAS COMPLETED IN 2020. YE WAS CAUGHT DRINKING WHITE CLAWS AT THE PEP RALLY. WHAT MUST BE DONE AT THE MDR?

If the FBA is over a year old, the ARD committee needs to seek consent to conduct another FBA.

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10. THE PARENT REFUSES TO GIVE CONSENT FOR THE FBA AT THE MDR. WHAT SHOULD THE SCHOOL DO?

Note the request to conduct an FBA and the parent's refusal in the deliberations. The school cannot conduct a FBA without parental consent. However, the school can still collect antecedent, behavior, and consequence ("ABC") data and analyze whether there is a pattern and what is the purpose of the behavior. From that information, the school can develop a BIP.

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11. AT THE MDR, THE SPECIAL EDUCATION TEACHER, PARENT AND LSSP BELIEVE THAT THE BEHAVIOR IS RELATED TO ELAN MUSKY'S DISABILITY OF AUTISM, WHILE THE GENERAL EDUCATION TEACHER ABSTAINED AND THE PRINCIPAL BELIEVES IT IS NOT RELATED. CAN THE STUDENT BE SENT TO THE DAEP?

When the behavior is related, the district can only remove the student to the DAEP if a special circumstance exists. Special circumstances are weapons, drugs or serious bodily injury.

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12. BILLY BOB'S PARENT, LORI MAY BELLE, DISAGREED THAT BILLY BOB'S BEHAVIOR WAS NOT A MANIFESTATION AND WANTS TO RECONVENE. WHAT SHOULD THE SCHOOL DO?

The 10 day reconvene does not apply to disciplinary ARD meetings.

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13. LORI MAY BELLE BROUGHT AN EVALUATION TO THE MDR FROM DR. FAUCI THAT SAID THAT THE BEHAVIOR WAS RELATED TO BILLY BOB'S DISABILITY AND THAT THE DAEP WOULD BE A DETRIMENT FOR BILLY BOB'S MENTAL HEALTH. WHAT IS THE ARD COMMITTEE REQUIRED TO DO?

The ARD committee is required to consider the outside evaluation, however, they are not required to accept it.

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14. AARON RODGERETTE'S BIP PROVIDES THAT WHEN AARON IS AGITATED, DO NOT ENGAGE IN A DISCUSSION OF WHAT HE IS DOING WRONG AND TO WAIT UNTIL HE HAS DE-ESCALATED. WHEN AARON BECOMES AGITATED IN PE AND WILL NOT PARTICIPATE, COACH GETS IN HIS FACE AND REPRIMANDS HIM FOR HIS BEHAVIOR. AARON PUSHES COACH. COACH FILES ASSAULT CHARGES. CAN AARON BE SENT TO THE DAEP?

Everyone that works with the student needs to be trained on the BIP. In this instance, the Coach did not follow the BIP and therefore, the student cannot be removed to the DAEP.

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15. GOAT BRADY HEADBUTTS AARON FOR MAKING PASSES AT HIS EX GISELLE. THE ARD COMMITTEE DETERMINES THAT THE BEHAVIOR IS RELATED TO HIS DISABILITY. CAN GOAT STILL BE REMOVED FOR SERIOUS BODILY INJURY?

The term serious bodily injury means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. Therefore, Goat cannot be removed for the headbutt to the DAEP. It does not mean, however, that Goat is immune from a consequence.

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16. TIMMY IS ID WITH AN IQ OF 39. WHEN HIS TEACHER WAS OUT DUE TO THE FLU, THE SUBSTITUTE TRIED TO TAKE THE IPAD BACK AFTER HIS BREAK AND TIMMY WHACKED HER IN THE HEAD WITH THE IPAD. CAN TIMMY BE EXPELLED?

When a student does not have the cognitive ability to understand right from wrong, the student code of conduct does not apply. Always make sure that the substitutes have the student's BIP.

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17. BILL MURRAYTH, WHO IS ED, GRABBED HIS TEACHER'S BACKEND AND TOLD HER SHE WAS A "WHOLE LOT OF WOMAN". SINCE THIS IS A MANDATORY DAEP OFFENSE, CAN HE BE PLACED EVEN IF IT IS DETERMINED THAT THE BEHAVIOR IS MANIFESTATION OF THE DISABILITY?

When a removal is mandatory, the school still needs to hold a MDR. If the behavior is related, the school can only remove if the behavior is a special circumstance.

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18. DENNIS DE LA MENACE IS IN THE 2ND GRADE AND QUALIFIES AS ED. DENNIS CALLED THE TEACHER A #S%& WHEN SHE TOLD HIM IT WAS TIME TO PUT THE IPAD AWAY AND START THE ASSIGNMENT. CAN HE BE SUSPENDED OUT OF SCHOOL FOR THREE DAYS?

In accordance with TEC 37.005(c), a student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

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1. conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
2. conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
3. selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
 - a) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
 - b) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or
 - c) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

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19. ARMIE HAMMER TOLD 4 STUDENTS AT LUNCH THAT HE WAS GOING TO SHOOT UP THE SCHOOL AND DRINK THE BLOOD OF HIS VICTIMS. ARMIE IS ED. IT WAS DETERMINED THAT HIS ACTIONS WERE RELATED TO HIS DISABILITY. CAN HE BE REMOVED TO THE DAEP?

When there is a genuine concern for safety, the ARD committee can still place the student in the DAEP when maintaining the student in the current placement poses a substantial likelihood of harm to himself or others.

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20. AT THE MDR, LORI MAY BELLE CONTENDS THAT HER SON DID NOT COMMIT THE OFFENSE AND WANTS TO PRESENT EVIDENCE OF HIS INNOCENCE. WHAT SHOULD THE ARD COMMITTEE DO?

The ARD committee does not determine guilt or innocence. The DAEP conference should occur before the ARD meeting to make that determination.

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21. A COURT ORDERS YE TO ATTEND THE SCHOOL'S DAEP. WHAT SHOULD THE SCHOOL DO?

A court cannot order a student into a specific placement at school.

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22. BILLY BOB IS NOT SHOWING UP AT THE DAEP. WHAT SHOULD THE SCHOOL DO?

The compulsory attendance laws need to be followed.

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23. GOOBER, WHO IS ID, BRINGS A KNIFE TO SCHOOL. HE SAID IT WAS FOR PROTECTION AGAINST THOSE KIDS THAT ARE MEAN TO HIM. WHAT ACTIONS DOES THE SCHOOL NEED TO TAKE?

While the student did bring a weapon to school, the student also stated that he is being harassed by other students. An investigation should be conducted. However, an MDR can be held as well.

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24. BILLY BOB SHARES HIS ADDERAL WITH HIS FRIENDS WHO NEED TO FOCUS ON THE STAAR. HOW IS THIS ADDRESSED IN THE MDR?

This constitutes a special circumstance which would allow the student to be removed for 45 school days even if the behavior was a manifestation.

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25. ELF IS ED AND IS FULLY SELF CONTAINED IN THE SOCIAL INTERVENTION CLASS. HE CALLS THE TEACHER A #%\$& WHEN SHE TELLS HIM TO START HIS WORK. CAN SHE HAVE HIM REMOVED FROM HER CLASS?

No. The purpose of the self contained classroom is working to replace maladaptive behaviors with more appropriate behaviors.

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