

**BEHAVIOR SUPPORTS – AGENCY LEVEL REVIEW PROTOCOL**  
**Person-Centered Behavioral Intervention, 14 NYCRR PART 633.16**

08/01/2014

**GENERAL GUIDELINES**

1. The 633.16 Requirements apply to Provider Agencies providing Behavior Intervention/Support Services as part of delivery of services in the following settings or service environments:
  - All residential facilities certified or operated by OPWDD, including family care homes;
  - All facilities certified by OPWDD, except: free standing respite; clinic treatment facilities; and diagnostic and research clinics
  - Day habilitation services (whether or not provided in a certified facility);
  - Prevocational services (whether or not provided in a certified facility); and
  - Community habilitation
2. This Agency Level Review has two parts:
  - a. **SECTION I: Implemented annually** (minimally once per each "survey year" October 01-September 30). This section reviews that the agency implements mechanisms to ensure:
    - i. Appropriately qualified and trained staff develop and implement behavior supports and interventions
    - ii. Behavior services are supported and safeguarded as required through operation of a Behavior Review/Human Rights Committee
  - b. **SECTION II: Implemented Ad Hoc** based on the findings from DQI routine reviews of the behavior support services provided to individuals. It is a review of agency policies and procedures. If systemic, egregious and/or pervasive deficiencies are noted during routine behavior service reviews in one or more aspect of the regulation, DQI staff should consider a review of agency policies and procedures. The review should focus on whether the provider agency has sufficient policies and procedures to facilitate competent and compliant implementation of behavior services. Consult the Area Director as needed in the decision to conduct this review. See guidance in that section of this protocol.
    - i. A policy is a statement, rule or guiding principle that must be followed
    - ii. A procedure is a process, method or course of actions that must be followed to implement a policy successfully. A procedure typically includes action steps, assignment of actions to a staff position and time frames for completion of each action.
3. Part 633.16 is available on the OPWDD website and on the QA drive. Surveyors are **required** to read it and refer to it if questions arise during a review of behavior support services. The protocol is not inclusive of each and every regulatory reference.
4. Requirements for new behavior support services, new behavior support plans, monitoring plans and associated informed consent are effective May 31, 2013. The requirements in this Part will apply to existing behavior support plans, including the requirement for written informed consent on May 31, 2014.



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**Section I**

**AGENCY LEVEL Implementation – *Annual Review***

**Human Rights Committee (Behavior Plan Committee), Training, Qualifications**

**THE FOLLOWING SECTIONS WILL BE COMPLETED**  
**AT LEAST ONE TIME A YEAR WHERE BEHAVIOR SUPPORT SERVICES ARE DELIVERED**

| CODE  | CITE         | STANDARD   | Y | N | N<br>A | COMMENTS<br>(Deficiency/Deficient Practice or Best Practice) |
|-------|--------------|--|---|---|--------|--|
| BA101 | 633.16(f)(1) | 1. The Agency has a Behavior Plan/Human Rights Committee, if required. | Y | N | N<br>A |  |

**Guideline:**

A behavior plan/ human rights committee is the committee which has the responsibility to protect the rights of persons whose behavior support plan incorporates the use of any restrictive/intrusive intervention and/or limitation on a person’s rights in order to prevent, manage and/or control challenging behavior, and which exercises this responsibility through the process of reviewing and approving (or refusing to approve) proposed behavior support plans strategies described in the plans.

An agency is not required to have a behavior plan/human rights committee if:

- (i) No individual served is in need of a behavior support plan that includes a restrictive/intrusive intervention; and
- (ii) No individual served is in need of a behavior support plan that includes a limitation on the person’s rights.

The agency must use a Behavior Plan/Human Rights Committee if any person's plan includes restrictive/intrusive intervention and/or limitation on the person’s rights. The agency may form its own committee or may coordinate with other agencies in the creation of a shared behavior plan/human rights committee. Membership and requirements for the committee can be found at Part 633.16(f)

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|-------|---------------------|---|---|---|--------|--|
| BA102 | 633.16(f)(8)(i-iii) | 2. The Agency’s Behavior Plan/Human Rights Committee maintains the required membership. | Y | N | N<br>A |  |
|-------|---------------------|---|---|---|--------|--|

**Guideline:**

Through a review of committee meeting minutes, verify that the committee has the required representation and that there are at least 3 persons who meet the representation requirements involved in any committee deliberations. Sampling of minutes is dependent on the frequency of committee meetings/review of behavior support plans. Minimally, review minutes for the past 6 months.

- A behavior plan/human rights committee must have a minimum of four members including:
  - (a) a licensed psychologist or a Behavioral Intervention Specialist, with training in assessment techniques and behavioral support plan development;
  - (b) a clinician, currently licensed, certified, or registered in New York State as one of the following: social worker, physician, physician assistant, nurse practitioner, registered nurse, speech pathologist, occupational therapist, physical therapist, or pharmacist; and
  - (c) an additional party, preferably with no ownership, employment relationship, or other interest in the agency. This party may be, but is not limited to:
    - (1) someone charged with the responsibility for advocating for a person's rights (e.g., an ombudsperson, a volunteer, or an advocacy organization representative); or
    - (2) someone with a developmental disability, or a guardian or family member of someone with a developmental disability.
- A committee member must recuse himself/herself from reviewing a plan for a person for whom he/she is actively involved in the delivery of services.
- The committee must have a minimum of three members present to proceed with its deliberations.

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| BA103 | 633.16(f)(3)-(6) | 3. The Agency’s Behavior Plan/Human Rights Committee performs the activities assigned regarding review of behavior support plans, in accordance with regulation. | Y | N | N<br>A |  |
|-------|------------------|--|---|---|--------|--|

**Guideline:**

This standard should be cited if there is **discovery of a pattern** of implementation of Behavior Support Plans that have been approved by the committee but do not meet the Behavior Support Plan requirements identified in 633.16(e)(2)-(3).

The discovery of this pattern will occur through repeated finding of plan inadequacy. E.g.:

- Repeated findings during separate reviews conducted within a short time frame
- Aggregation of Behavior Support Routine Review findings over the survey year, when it is discovered that problems with behavior support plans have sustained over time.

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|-------|--------------|--|---|---|----|--|
| BA104 | 633.16(i)(7) | 4. The agency has a system to track and document required and supplemental training provided to its staff. | Y | N | NA |  |
|-------|--------------|--|---|---|----|--|

**Guideline:**

The agency must maintain documentation of required training and certifications related to behavior support planning and provision expected in the regulations. The tracking and documentation may take any form (i.e. electronic or paper) as long as it effectively tracks all applicable staff's training completion and is effective in ensuring timely retraining as needed. If the agency identifies additional training needed by staff ensure that is part of their tracking mechanism

Specific training requirements will be reviewed in separate standards. This standard addresses presence of an effective tracking system or lack of same. If the agency identifies additional training needed by staff ensure that is part of their tracking mechanism

Additionally, Part 633.8 requires that there is a mechanism for monitoring the type, frequency and amount of training and that records are current.

|       |               |   |   |   |    |  |
|-------|---------------|---|---|---|----|--|
| BA105 | 633.16(b)(32) | 5. Staff persons who are developing and/or monitoring Behavior Support Services meet the educational and experiential qualifications for their positions. | Y | N | NA |  |
|-------|---------------|---|---|---|----|--|

**Guideline:**

All behavior support plans must be developed by a **BIS, or a licensed psychologist or a licensed clinical social worker with training in behavioral intervention techniques under the following conditions:**

- Level 1 Behavioral Intervention Specialists (BIS) may develop and/or provide supervision for behavioral support plans or services that do not include restrictive/intrusive interventions.
- Level 2 BIS may develop behavioral support plans or services that do not include restrictive/intrusive interventions under the supervision of Level 1 BIS.
- Behavior support plans or services which include restrictive/intrusive interventions may be developed by a Level 1 or a Level 2 BIS under the supervision of a licensed psychologist or licensed clinical social worker (LCSW)

*Initially for Behavior Intervention Specialists at each level, review that they meet the educational and experiential requirements. Thereafter, review for BIS hired since the last review.*

*You will also need to verify that the agency has a licensed psychologist or licensed clinical social worker available to provide supervision to BIS's if behavior support plans or services include restrictive/intrusive interventions.* There is no specific number of hours that the licensed professional must be available. The important point is that he/she must work enough hours to provide adequate supervision and guidance. This will best be assessed based on your routine findings of behavior plans, their implementation and related oversight.

A person lacking certain credentials may be approved to complete the activities of a BIS, licensed psychologist or licensed clinical social worker if OPWDD has approved a waiver of a specific requirement for that particular person. If such waiver has been granted the agency has been provided documentation via letter or email from OPWDD Central Office approving the waiver. Verify that any person not directly meeting the qualifications but performing the functions of the position has had the qualification exception waived by OPWDD.

See regulatory requirements 633.16(b)(32) and #21 below for specifics on the qualifications of Level 1 and Level 2 Behavior Intervention Specialists.

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|-------|--------------|--|---|---|----|--|
| BA106 | 633.16(d)(1) | 6. The agency verifies that Clinicians who complete Functional Behavioral Assessments must have training in functional behavior assessment techniques. | Y | N | NA |  |
|-------|--------------|--|---|---|----|--|

**Guideline:**

It is the responsibility of the agency to ensure that the clinician was trained and maintain a record of the training in FBA techniques. Review documentation used by the agency to determine clinicians' are appropriately trained. Training may have occurred during the pursuit of a college degree or the agency may have obtained the training for the clinician.

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| BA107 | 633.16(i)(3-4) | 7. The agency verifies that responsible* staff and supervisors successfully completed and are annually recertified in an OPWDD-approved training course in positive behavioral strategies and physical intervention techniques. | Y | N | NA |  |
|-------|----------------|---|---|---|----|--|

**Guideline:**

\*This requirement applies to **staff who are responsible to implement BSPs that include physical intervention techniques** and their supervisors.

- Through interview and documentation review, determine how the agency decides which staff members require the training and how they maintain records of this determination.
- Review the agency's training records to verify that applicable staff members have completed the required training and that they are certified annually (within the year).
- If necessary review the curriculum used. Both SCIP-R and PROMOTE include these strategies and techniques Training must be provided by certified instructors/trainers.

Note: While it is OPWDD's expectation that all service providers transition to PROMOTE as the training curriculum for positive and physical behavioral strategies, this will take multiple years to complete.

If the agency uses a curriculum you are not familiar with and you are unsure of OPWDD approval, contact your Area Director.

**END OF BEHAVIOR SUPPORT AGENCY LEVEL ANNUAL REVIEW**

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**SECTION II**

**Agency level policies/procedures – *ad hoc review***

In most cases, opwdd will expect that the agency has adequate policies and procedures. However, if the review of the behavior support services results in identification of egregious, pervasive or systemic deficient practice(s), the surveyor must conduct a review of the agency’s written policies and procedures identified below. *Consult with the Area Director as needed.*

| CODE  | CITE                         | STANDARD   | Y | N | N<br>A | COMMENTS<br>(Deficiency/Deficient Practice or Best Practice) |
|---|------------------------------|--|---|---|--------|--|
| BA108   | 633.16(c)(1)                 | 8. The Agency has Behavior Intervention Policies and procedures in place.  | Y | N | NA     |  |
| <p>Guideline: If the agency provides, or even one person served by the agency needs, behavior support services, the agency must have policies and procedures that conform to Part 633.16.</p> <ul style="list-style-type: none"> <li>• Agency policies/procedures must meet the regulations effective after May 31, 2013, with specifics identified in the following standards. When reviewing the standards below in this P &amp; P section, ensure that there is clear policy information procedural guidance provided in the agency's P &amp; P as needed. <ul style="list-style-type: none"> <li>○ A <b>policy</b> is a statement, rule or guiding principle that must be followed</li> <li>○ A <b>procedure</b> is a process, method or course of actions that must be followed to implement a policy successfully.</li> <li>○ A <b>procedure</b> typically includes action steps, assignment of actions to a staff position and time frames for completion of each action.</li> </ul> </li> </ul> |                              |  |   |   |        |  |
| BA109   | 633.16(c)(1)<br>633.16(c)(3) | 9. Agency policies and procedures prohibit the use of behavioral interventions for the convenience of staff disciplinary purposes or as a substitute for treatment or supervision. | Y | N | NA     |  |
| <p>Guideline: See BA108 for guidance on required characteristics of policies and procedures. Ensure this requirement is addressed in agency policy/procedures. Behavior interventions should instead be used to develop or increase adaptive behavior for the person's more independent and successful living.</p>  |                              |  |   |   |        |  |
| BA110   | 633.16(c)(1)<br>633.16(c)(6) | 10. Agency policies and procedures prohibit the use of aversive conditioning   | Y | N | NA     |  |
| <p>Guideline: See BA108 for guidance on required characteristics of policies and procedures. Ensure aversive conditioning is prohibited and prohibition assured is addressed in agency policy/procedures.</p>   |                              |  |   |   |        |  |

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|--|-------------------------------------|---|---|---|----|--|
| BA111  | 633.16(c)(1)<br>633.16(c)(7)(i-iii) | 11. Agency policies and procedures prohibit the use of sleep or food deprivation or alteration for the convenience of staff, for disciplinary purposes or as a substitute for treatment or supervision. | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA108.<br/> Safeguards and supervision must always be in place to ensure that every person's dignity, safety, health, welfare and civil rights are protected. Please note that caveats to the meal/food regulation (c)(7) include:</p> <ul style="list-style-type: none"> <li>(ii) (a) meals shall be served at appropriate times and in as normal a manner as possible;</li> <li>(ii) (b) the composition or timing of regularly served meals shall not be altered for disciplinary (punishment) purposes, or for the convenience of staff;</li> <li>(ii) (c) restrictions of the amount of food or type of diet that a person consumes may be made for clinical reasons, pursuant to documentation by a qualified healthcare professional, which shall specify the clinical justification for the restriction and the time period that such restriction shall be in effect, and which shall be included in the individual's written service plan;</li> <li>(ii) (d) nothing in this subparagraph shall be deemed to limit the ability of a facility or agency to adopt policies or procedures to promote the health of each person and a safe and sanitary environment</li> </ul>   |                                     |   |   |   |    |  |
| BA112  | 633.16(c)(1)<br>633.16(c)(8)(i-v)   | 12. Agency policies and procedures address requirements for the use of any intermediate and/or restrictive physical intervention techniques   | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA108.<br/> Agency policies and procedures must address the use of intermediate and/or restrictive physical intervention techniques as described in 633.16(j)(1), which addresses the design, safe application, and certification of staff.<br/> Restrictive/intrusive interventions include the following:</p> <ul style="list-style-type: none"> <li>• Intermediate and/or restrictive physical intervention techniques; see 633.16(j)(1). <ul style="list-style-type: none"> <li>○ intermediate techniques include holds and escorts intended to: <ul style="list-style-type: none"> <li>– maintain persons in a standing or seated position to reduce or limit movement to maintain health and safety</li> <li>– remove persons from an unsafe location or situation</li> </ul> </li> </ul> </li> <li>• the use of time-out (exclusionary and non-exclusionary); see 633.16 (j)(3);</li> <li>• the use of any mechanical restraining device with the intent to modify or control challenging behavior; see 633.16 (j)(4);</li> <li>• the use of medication for the purpose of preventing, modifying, or controlling challenging behavior that is not associated with a co-occurring diagnosed psychiatric disorder; see 633.16 (j)(5); and</li> <li>• other professionally accepted methods to modify or control behavior which are determined by agency/facility policy to be restrictive/intrusive interventions because they may present a risk to a person's protection or encroach unduly on a person's normal activities (e.g., response cost, overcorrection, negative practice, and satiation).</li> </ul> <p><b>Exception:</b> Physical intervention techniques and/or mechanical restraining devices used to facilitate emergency evacuations or medical/dental exams, procedures, and related healthcare activities (and to protect individuals, healthcare providers, and others during such exams, procedures, and activities) are not considered to be restrictive/intrusive interventions that require inclusion in a behavior support plan. Such interventions may be incorporated in other individualized plans to address these situations.</p> |                                     |   |   |   |    |  |

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|--|-------------------------------|---|---|---|----|--|
| BA113  | 633.16(c)(1)<br>633.16(c)(9)  | 13. Agency policies and procedures address behavioral interventions which impose a limitation on a person’s rights as specified in section 633.4.     | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA108.<br/> Agency policies and procedures must address additional requirements applying to behavioral interventions which impose a limitation on a person's rights as specified in section 633.4 of this Part, including behavioral consequences negatively impacting the person's dignity (see 633.16[j][2] for specifics).</p>   |                               |   |   |   |    |  |
| BA114  | 633.16(c)(1)<br>633.16(c)(2)  | 14. Agency policies and procedures describe the purpose for the development and implementation of behavioral interventions and plans for individuals. | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA108.<br/> Individualized behavior interventions and intervention plans must be for the purpose of enhancing the individual’s quality of life, relationships with others, and ability to function as independently as possible, if the individuals exhibits behaviors that are barriers to these. The purpose of behavior support interventions is to establish or increase the person’s adaptive (replacement) behaviors and modify or control a person’s challenging behavior.</p>   |                               |   |   |   |    |  |
| BA115  | 633.16(c)(1)<br>633.16(d)(1)  | 15. Agency Policies and procedures require a Functional Behavioral Assessment be completed prior to the development of a Behavior Support Plan.       | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA101.<br/> A functional behavioral assessment is a process intended to: identify and operationally describe challenging behavior(s); identify the function(s) or purpose(s) for challenging behavior; and to identify the specific environmental stimuli or conditions that are maintaining the challenging behavior(s). This is required when the challenging behavior is not solely the result of a diagnosed co-occurring psychiatric disorder.</p> <p>Please Note: If medications are prescribed to treat a co-occurring psychiatric condition in accordance with Part 633.16(j)(5)(vi), neither a functional behavior assessment nor a behavior support plan is required.</p> |                               |   |   |   |    |  |
| BA116  | 633.16(c)(1)<br>633.16(c)(10) | 16. Agency policies and procedures address the process for objections to current and proposed Behavior Support Plans.                                 | Y | N | NA |  |
| <p>Guideline: Also see additional guidance re: P &amp; P expectations in BA101.</p> <ul style="list-style-type: none"> <li>Any objection to a person’s current or proposed behavior support plan or to a proposed revision of a current plan must be made following the process as outlined in section 633.12</li> <li>Objections to the use of restrictive/intrusive interventions by the party providing informed consent and objections to medication use by an individual receiving services must follow the procedures listed in Part 633.16 (h). Policies and procedures must therefore address/describe these procedures.</li> </ul>  |                               |   |   |   |    |  |

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|-------|----------------------------------|--|---|---|----|--|
| BA117 | 633.16(c)(1)<br>633.16(e)(4)(ii) | 17. Agency policies and procedures address the need to obtain informed consent (when required) for a Behavior Support Plan and/or Monitoring Plan. | Y | N | NA |  |
|-------|----------------------------------|--|---|---|----|--|

**Guideline:**

Agency Policies and procedures should provide specific guidelines explaining when informed consent is necessary, how it is to be obtained and what information must be provided to the Individual or Surrogate before they provide informed consent, responsible agency staff, timeframes, etc. Such consent shall be in writing, except in the case of the short-term use of medication pursuant to subparagraph (j)(5)(v) of this section and as provided in paragraph (g)(1) of this section.

**Informed consent** means the effective knowing consent by a person (or his/her legally authorized surrogate) with sufficient capacity to consent and able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. Consent shall be in writing, except in the case of the short-term or emergency use of medication. Informed consent is required for both Behavior Support Plans and Monitoring Plans. The basic elements of information necessary to informed consent include:

- a fair explanation to the person or surrogate of the procedures to be followed, and their purposes;
- a description of any potential discomforts and risks which may reasonably be expected;
- a description of any benefits to the participant which may reasonably be expected;
- a disclosure of appropriate alternative procedures, if any; and
- an instruction that the person or surrogate is free to withdraw his or her consent at any time without prejudice.
- Information about planned interventions must be presented in a manner that permits a knowledgeable evaluation and decision to be made. It must be presented in simple terms, in whatever language the party giving informed consent reads or understands most easily and clearly (e.g., English, Spanish, Mandarin), and in whatever manner he or she understands most easily and clearly (e.g., sign language, communications board, computer-assisted technology, Braille). Consent, when given by a surrogate, should only be given if, in doing so, this will be in the person’s best interest and takes into consideration, to the extent possible, the person’s opinions, beliefs and wishes.

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|-------|----------------------------------|--|---|---|----|--|
| BA118 | 633.16(c)(1)<br>633.16(f)(3)-(7) | 18. Agency policies and procedures address the <b>operation and responsibilities</b> of the Behavior Plan/Human Rights Committee if a committee is required. | Y | N | NA |  |
|-------|----------------------------------|--|---|---|----|--|

**Guideline:**

Also see additional guidance re: P & P expectations in BA101.

Agency Policies and procedures should provide specific guidelines explaining the activities of the committee; parties responsible to initiate, implement, and ensure completion of the committee responsibilities; documentation related to all committee activities; and timeframes for the activities/responsibilities of the committee.

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|-------|------------------------------|--|---|---|----|--|
| BA119 | 633.16(c)(1)<br>633.16(f)(8) | 19. Agency policies and procedures address the <b>membership</b> of the Behavior Plan/Human Rights Committee if a committee is required. | Y | N | NA |  |
|-------|------------------------------|--|---|---|----|--|

Guideline: Also see additional guidance re: P & P expectations in BA101.  
 Agency Policies and procedures should provide specific guidelines explaining membership, recusal from discussions, ensuring attendance per requirements, and monitoring to ensure membership and participation standards are met.

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|-------|---------------------------------|---|---|---|----|--|
| BA120 | 633.16(c)(1)<br>633.16(e)(2)(i) | 20. Agency policies and procedures include a process for ensuring staff developing behavior support plans meet educational and experiential qualifications as specified in Regulations. | Y | N | NA |  |
|-------|---------------------------------|---|---|---|----|--|

Guideline: Also see additional guidance re: P & P expectations in BA101.  
 The policies and procedures include specific actions that are to be taken to ensure that only qualified staff are developing and monitoring Behavior Intervention or Monitoring Plans. Below are the specific expectations and qualifications:

**A licensed psychologist, licensed clinical social worker, or behavioral intervention specialist with training in behavior intervention techniques must develop a behavior support plan.**

Per 633.16(b)(32) Educational and experiential requirements for a Behavioral Intervention Specialist (BIS) are:

**Level 1 BIS:**

**(a) Education/Training/Licensure:**

- (1) at least a Master’s degree from a program in a clinical or treatment field of psychology, social work, school psychology, or applied psychology as it relates to human development and clinical interventions, and documented training in assessment techniques and behavior support plan development; or
- (2) a National Board certification in behavior analysis (BCBA) and a Master's degree in:
  - (i) behavior analysis; or
  - (ii) a field closely related to clinical or community psychology that is approved by OPWDD; or
- (3) a New York State license in mental health counseling;

and

**(b) Experience:** Have at least five (5) years of experience:

- (1) working directly with individuals with developmental disabilities, including the development, implementation, and monitoring of behavior support plans; and/or
- (2) providing supervision and training to others in the implementation of behavior support plans.

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**Level 2 BIS:** Must meet the qualifications outlined in (a),(b), or (c) as follows:

- (a) The person must have a BCBA and a Master's degree in:
  - 1. behavior analysis; or
  - 2. a field closely related to clinical or community psychology that is approved by OPWDD; or
- (b) The person must:
  - (1) have either:
    - (i) a Master's degree in a clinical or treatment field of psychology, social work, school psychology, applied psychology as it relates to human development and clinical intervention, or a related human services field; or
    - (ii) a New York State license in mental health counseling; and
  - (2) have or obtain OPWDD-approved specialized training or experience in functional assessment techniques and behavior support plan development; or
- (c) The person must:
  - (1) have a Bachelor's degree in a human services field; and
  - (2) have provided behavioral services for an agency in the OPWDD system as of, and continuously since, December 31, 2012; and
  - (3) either:
    - (i) is actively working toward a Master's degree in an applied area of psychology, social work, or special education; or
    - (ii) completes at least one graduate-level course in an applied health service area of applied psychology, social work, or special education each year.
    - (iii) The qualifying Master's degrees referenced, including any degree obtained through an online educational or distance learning program, must have been awarded by a regionally accredited college or university, or one recognized by the NYS Education Department as following acceptable educational practices. If the Master's degree was awarded by an educational institution outside the United States and its territories, the party must provide independent verification of equivalency from one of the approved entities used by the NYS Department of Civil Service for educational equivalency reviews.
    - (iv) Notwithstanding any other provision of this section, parties who are employed by New York State and function in a title included in a New York State Civil Service title series shall provide behavioral services or supervision of such services described in this section as included in their job descriptions.
    - (v) Notwithstanding any other provision of this paragraph, a party may be considered a BIS in the event that OPWDD has approved a waiver of a specific required qualification upon application of a provider (See paragraph (c)(12) of this section).

End of Behavior Services Agency Level Protocol