



**NCSD#1**

Section 504  
Procedures

Revised August 2023



**(Niobrara County School District/WYVA)  
Section 504 Procedures**

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# ACRONYMS/ DEFINITIONS

The following are commonly used acronyms and definitions used in Section 504.

**ADD** — Attention Deficit Disorder

**ADHD** — Attention Deficit Hyperactivity Disorder

**AG** — Annual Goal

**AP** — Accommodation Plan

**APR** — Annual Performance Report

**AYP** — Annual Yearly Progress

**CD** — Cognitive Delay

**CFR** — Code of Federal Regulations

**CIMFS** — Continuous Improvement Focused Monitoring System

**DD** — Developmental Disabilities

**DNR** — Do Not Resuscitate

**DOE** — Department of Education

**ED** — Emotionally Disturbed

**EI** — Early Intervening

**ESY** — Extended School Year

**FAPE** — Free Appropriate Public Education

**FERPA** — Family Educational Rights and Privacy Act

**HI** — Hearing Impaired

**IDEA** — Individuals with Disabilities Education Act—Special Education (2004)

**IEP** — Individualized Education Program

**IFSP** — Individualized Family Service Plan

**LEA** — Local Education Agency

**LRE** — Least Restrictive Environment

**LD** — Learning Disability

**MTSS**- Multi-Tiered Systems of Support  
**MPRRC** — Mountain Plains Regional Resource Center  
**NCLBA** — No Child Left Behind Act  
**OCR** — Office for Civil Rights  
**OHI** — Other Health Impaired  
**OSEP** — Office of Special Education Programs  
**OT** — Occupational Therapy  
**Part B** — Special Education for School-Aged Students  
**PT** — Physical Therapy  
**RtI**—Responsiveness to Intervention  
**SEA** — State Education Agency  
**SPP** — State Performance Plan  
**RtI** — Responsiveness to Intervention  
**TTY** — A Telecommunication Device for the Deaf (Teletypewriter)  
**VI** — Visually Impaired  
**504** — Section 504 of the Rehabilitation Act

## **DEFINITIONS**

The following are definitions that will be used in this manual.

**ACCOMMODATIONS**—Adaptations made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. In some cases, a Section 504 plan should be developed outlining accommodations.

**CONSENT** — Written parent permission before initial evaluation.

**FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)**—The federal law and regulations that address student record keeping and confidentiality.

**FREE APPROPRIATE PUBLIC EDUCATION (FAPE)**—Related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of non-disabled persons are met.

**INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT, (IDEIA) 2004**—Federal special education law and regulations.

Multi-Tiered Systems of Support (MTSS)- MTSS is a systematic approach to address students' academic, social-emotional, and behavioral needs. A school team including parents will meet throughout the school year to review and implement interventions, create goals, and measure progress.

**PHYSICAL OR MENTAL IMPAIRMENT**—(1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addiction; and alcoholism.

**PROGRAM OR ACTIVITY**—In the context of Section 504/ADA, this includes all operations of State and local agencies that receive federal funds. This includes colleges, universities, and/or school districts.

**SECTION 504**—The Vocational Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states, “No otherwise qualified disabled individual in the United States... shall, solely by reason of a disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”



## **OVERVIEW**

### ***Nondiscrimination***

**LEA does not discriminate on the basis of race, sex, color, national origin, age, or disability.**

Discrimination on the basis of disability in providing any aid, benefit, or service is prohibited in any setting, including school districts.

Examples of discrimination include:

- Refusing to allow any student with a disability the opportunity to be on the honor roll;
- Excluding a student from an academic class because the classroom is inaccessible;
- Refusing to give course credit or lowering a grade for a student due to nonattendance when the absences are related to a disabling condition;
- Refusing to allow any otherwise qualified student with a disability the opportunity to participate in extracurricular activities;
- Refusing to provide opportunities for students with disabilities to try out for academic or sports teams.

### ***Definition of Child with a Physical or Mental Impairment.***

Students with disabilities shall be entitled to protections provided by Section 504 of the Rehabilitation Act. A student with a disability is defined a student with a physical or mental impairments that substantially limits the student in a major life activity.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: (1) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (2) use of assistive technology; (3) reasonable accommodations or auxiliary aids or services; or (4) learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The definition of disability shall be construed in favor of broad coverage of individuals under Section 504 and Title II, to the maximum extent permitted by the terms of those laws.

### ***Designation of Coordinator***

The school must identify a Section 504 Coordinator, who works closely with the Special Education Department to assure compliance and appropriate services for all students. In all required Section 504 notices, the 504 Coordinator, should be identified.

### ***Identification***

The identification process can be coordinated with the NCSD's special education child-find process. At least annually, however, the school must provide notice of the opportunity for referrals in (a) school forms; (b) school publications; and (c) school handbook. Students who may be disabled under Section 504 may be referred by a concerned teacher, administrator, parent, or private/public agency. The MTSS process may assist in identification of students with disabilities.

Possible indicators of eligibility under Section 504 include, but are not limited to, the following:

- A parent/guardian frequently expresses concern about the student's performance;
- A student is referred for evaluation and found not eligible under the IDEA;
- A student has or is diagnosed with a chronic health condition, disability, or injury that may constitute or cause the student to be disabled;
- Lack of educational, social-emotional, or behavioral progress;
- Truancy or attendance issues that relate to disability or illness.

Educational staff may learn of possible disability-related concerns when reviewing information from the student enrollment process or by working directly with parents, learning coaches, and/or students. If educational staff learn of any medical- or disability-related information that may require consideration for 504 Plan eligibility, the staff member should notify the 504 Coordinator via e-mail and/or phone call.

### ***Transfers***

Students who transfer to NCSD#1 with a 504 Plan received by the district will have their 504 reviewed by the 504 Coordinator or an individual designated by the coordinator. A team meeting may be held in case changes need to occur if the accommodations need to be altered for the learning environment.

### ***Referral***

When the decision is made to initiate a Section 504 referral, the parent(s) or guardian(s) must be notified. Parents should already be aware of any intervention efforts of the building-based team.

Once a referral is made, the Section 504 Coordinator or his or her designee shall review all relevant information to determine whether there is a reasonable basis to suspect a disability. If there is a reasonable basis to suspect a disability, the district shall seek parental consent to initiate the student's evaluation under Section 504. If the school elects not to evaluate a referred student notice must be provided to the parents giving them the opportunity to challenge the decision pursuant to Section 504 procedure

### *Evaluation*

Parents/guardians will need to provide consent for an evaluation and this evaluation will be completed within a reasonable time. The District shall conduct an evaluation of any student who, because of a disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement. The District shall ensure that:

- Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer.
- Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

The District shall ensure the following actions are taken when interpreting evaluation data and making placement decisions:

- Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
- Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.
- Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and

the placement options. The Section 504 Committee shall request and consider information from the parent/guardian if he or she is a person knowledgeable about the student.

Along with standardized testing, evaluations may also include reviews of data related to or resulting from:

- Curriculum-based assessments;
- Medical information;
- Grades;
- Attendance records;
- Discipline records;
- Adaptive behavior;
- Physical condition;
- Teacher or parent observation notes.
- Information from the parent/guardian, including information regarding the student's ability to complete homework in an equivalent time period to the student's non disabled peers

### ***Re-Evaluation***

NCSD#1 will conduct a review or reevaluation every three years. This reevaluation may be similar to the initial evaluation or a review of existing data. The goal of the reevaluation is determining ongoing eligibility under ADA.

### ***Exiting, Parent Revocation, and Post-Secondary Transition***

Students may no longer qualify for a 504 plan after re-evaluation; documentation should be clear as to how the 504 Team made the determination.

Parents may revoke their consent for the 504 Plan. Upon the school's receipt of the parent's written request, the student's 504 Plan will be end-dated and relevant parties will be notified. All accommodations and supplemental services may be discontinued.

### ***Discipline***

The 504 team should be aware of behaviors or disciplinary action that may be a pattern or result in suspensions or exclusions. When a team member believes there is a pattern of such disability-related behavior that is not adequately addressed by the Student's current plan, a meeting should be held to discuss concerns, and possible remedies. This may include a Behavioral Intervention Plan (BIP), additional mental health services within the district, or additional accommodations.

Prior to action taken by the team that may lead to a change in placement, a Functional Behavioral Assessment (FBA) is recommended to determine the nature of the behavior. FBA results should be reviewed once completed and the team can make a decision that is in the student's best interest.

### Manifestation Determination Reviews (MDRs)

The team is required to meet when a student is removed from their educational placement for disciplinary reasons for more than 10 school days, or if there is a pattern of disciplinary removals that result in removal for more than 10 school days. The meeting is called a Manifestation Determination Review (MDR) with the goal being to determine the following:

- 1) Was the behavior caused by or related to the student's disability?
- 2) Was the behavior a result of the team's failure to implement the 504 Plan?

The determination of whether a series of disciplinary removals creates a pattern is made on a case by case basis. Among the factors considered in determining whether a series of suspensions has resulted in a significant change in placement are length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school. The Office of Civil Rights does not consider a series of suspensions that, in the aggregate, is for 10 or fewer days to be a significant change in placement.

Before implementing a suspension or expulsion that constitutes a significant change in the placement of a student with a disability, the student's 504 team must conduct a manifestation determination meeting to determine whether the misconduct in question is caused by or has a direct and substantial relationship to the student's disability, and if so, whether the misconduct was a direct result of the school's failure to implement the 504 plan. If it is determined that the misconduct is not caused by the student's disability or the school's failure to implement the 504 plan, the student may be excluded from school in the same manner as are similarly-situated students who do not have disabilities.

If, after reevaluation of an initial placement decision, the parent disagrees with the manifestation determination regarding the relationship of the behavior to the disability or with the subsequent placement proposal where the behavior is determined to be caused by the disability, the parent may request an impartial hearing.

### ***Due Process***

Parents and students have due process rights under Section 504. These include the following:

- Right to be informed by the district of specific due process rights;
- Right for the child to be provided with FAPE and have an equal opportunity to participate in non-academic school activities;
- Right for the child to have an appropriate education in the least restrictive setting, which includes accommodations, modifications, and related services;
- Right to notice regarding referral, evaluation, and placement;
- Right for the child to have a fair evaluation conducted by knowledgeable person(s);
- Right to an administrative hearing and appeals process;
- Right to examine and obtain copies of all education records under FERPA; and
- Right to provide consent prior to evaluation for Section 504 services.

## **Working with Parent Concerns, Complaints and Due Process Hearings**

The best solutions to parent concerns occur at the school level. Therefore, the first step in resolving a complaint should involve the 504 Coordinator working with the parent to a mutually acceptable resolution of the parent's concern(s). If the concern(s) cannot be resolved informally, the parent may seek formal resolution under the complaint process or an impartial due process hearing. Notice of these procedures will be provided on the school's website. The parent can file a complaint through the complaint resolution process:

1. The parent should complete and submit a complaint in writing.
2. The school 504 Coordinator, or designee, will review the complaint and decide whether to seek to mediate the dispute between the parent and school or refer the matter for either an investigation or an impartial due process hearing.

If a parent does not agree to mediation, the matter must be referred for investigation or due process. Mediation may not be used to deny a parent the right to due process.

If the complaint asserts allegations of discrimination carried out by employees, other students, or third parties, the complaint will be investigated as provided by School policies and these procedures. If the complaint challenges a 504 Team determination regarding eligibility, evaluation, or the content of the 504 Plan, the complaint will be referred for a due process hearing.

School will take steps to prevent recurrence of any harassment or other discrimination, and to correct discriminatory effects on the complainant and others, if appropriate. School prohibits retaliation against any complainant.

### **(A) Complaint.**

File a written complaint with the school when you believe your child's rights have been violated. You must submit this complaint to the building level 504 coordinator.

Upon receipt, the building level coordinator or his/her designee will conduct an adequate, reliable, and impartial investigation of complaints, including an opportunity for the complainant to present witnesses and other evidence. The building level coordinator or his/her designee will submit a written report of findings to the complainant(s) and any person who is accused of discriminating or retaliating or otherwise violating Section 504 within ten (10) instructional days. Complainant may then submit a letter of appeal to the 504 Compliance Officer. Within ten (10) instructional days from receipt of the letter, the 504 Compliance Officer will submit a response letter to the complainant and any person who is accused of discriminating or retaliating or otherwise violating Section 504. If the complainant would like to appeal the 504 Compliance

Officer's response, any appeal must be submitted in writing to the NCSD Superintendent. NCSD's Superintendent must reply within ten (10) instructional days.

A complainant may always file a written complaint with the U.S. Department of Education, Office for Civil Rights,

Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582

(B) Due Process.

If the complainant challenges a 504 Team determination regarding the evaluation, eligibility or content of a student's 504 Plan, the 504 Team must do the following:

- Provide the family the results of the decision in writing.
- The written decision must include all documentation that served as evidence to make the final decision.
- The 504 Team may then advise the family of their right to file a complaint for due process with the Wyoming Department of Education, ADA Section 504.

Either party may refer the complaint for a due process hearing conducted by an impartial hearing officer. Request for a Section 504 due process hearing must be made in writing to the 504 Compliance Officer. Upon receipt of such a request, the necessary arrangements will be made by the 504 Compliance Officer, including the selection of a hearing officer. A person who is an employee of the school, or any person having a personal or professional interest which would conflict with his/her objectivity in the hearing, may not be appointed as a hearing officer. The hearing officer must have knowledge of a Section 504 Plan and must not be an employee of the school. A due process hearing will occur in a timeframe that is reasonable for the parent and school, generally not more than 30 calendar days following receipt of the written request. The parent and/or the school may be represented by legal counsel at the hearing. The parent or attorney may present evidence and/or testimony supporting the parent's challenge to the 504 Team determination. The school may respond by presenting evidence and/or testimony to support the 504 Team determination. Parents will be provided with access to any evidence prior to the hearing. The hearing office will issue a written decision and provide a copy of the decision to both parties not later than 30 calendar days after the hearing. Either party has a right to seek judicial review of a hearing officer decision. In the absence of an appeal, the school will implement the decision of the hearing officer within 15 calendar days of the school's receipt of the decision.

The school will provide notice to parents/guardians about this procedure by providing them with a copy of the 504 Procedural Safeguards whenever a request for an evaluation or reevaluation is made, whenever an evaluation or reevaluation occurs, prior to every 504 Team meeting, or whenever there is a significant change in placement.

## Parents with Disabilities

Providing accommodations also applies to parents with disabilities. If needed in order to allow for parental participation, accommodations for parents with disabilities will be provided; thus enabling parental involvement throughout the 504 process. The school must take appropriate steps to ensure that communications with parents with disabilities are as effective as communications with others.

## Collaboration Across Departments

Students with a 504 Plan may receive services and/or support through other school-based programs where appropriate, including but not limited to: academic interventions through MTSS, support through the English Learners Program, McKinney-Vento, Foster Care Education, and the Migrant Education Program. School staff will communicate and collaborate across departments to coordinate services for students receiving services and/or support through multiple programs.

### **Section 504 Procedures**

<b>Referral</b>	<ul style="list-style-type: none"><li>● Referring staff completes <b>Section 504 Referral</b> form.</li><li>● Schedule initial meeting (see below) and offer <b>Section 504 Procedural Safeguards</b>.</li><li>● Information gathering and a determination regarding eligibility and placement must be completed within a reasonable time of the date parental consent was received by the school for the initial evaluation.</li></ul>
<b>Parent Notification</b>	<ul style="list-style-type: none"><li>● Send <b>Parent Notice of Section 504 Referral</b> with completed <b>Section 504 Referral</b> form and <b>Section 504 Procedural Safeguards</b>.</li><li>● If there is no reasonable basis to suspect a disability, the school may elect not to evaluate but must provide parent with notice of the decision (include <b>Section 504 Procedural Safeguards</b>), giving them an opportunity to challenge through an impartial hearing.</li></ul>

<p style="text-align: center;"><b>Initial Meeting or Contact</b></p>	<ul style="list-style-type: none"> <li>● Discuss the <b>Section 504 Notice and Permission for Evaluation</b> along with <b>Section 504 Procedural Safeguards</b>.</li> <li>● Obtain permission for evaluation. If parent refuses to give consent to evaluate.</li> <li>● Ask parent to complete <b>Section 504 Release of Information</b> if applicable.</li> </ul>
<p style="text-align: center;"><b>Transfer from another District</b></p>	<ul style="list-style-type: none"> <li>● Request the 504 plan and evaluations from the previous District.</li> <li>● Review previous school documents.</li> <li>● If the records are current <ul style="list-style-type: none"> <li>○ Draft <b>Niobrara County School District/WYVA</b> Section 504 Plan.</li> <li>○ Send Section 504 Parent Invitation along with Section 504 Procedural Safeguards.</li> <li>○ Invite all participants to 504 Committee Meeting.</li> <li>○ Review and update Section 504 Plan.</li> <li>○ Obtain signatures.</li> </ul> </li> <li>● If the documents are expired or there is not enough information to determine 504 eligibility, treat as an initial referral</li> </ul>

<p style="text-align: center;"><b>Evaluation</b></p>	<ul style="list-style-type: none"><li>● Review current educational record and complete <b>Student Record Review</b>.</li><li>● Gather or request supplemental evaluation information as needed.</li><li>● Gather formal reports if necessary--request information from private providers by sending <b>Physician's Letter and Questionnaire Regarding Medical Concerns</b> or <b>Physician's Letter and Questionnaire</b> as applicable and include copy of signed <b>Section 504 Release of Information</b>.</li><li>● Use additional questionnaires to gather information from staff or parents as needed.</li><li>● While <b>Niobrara County School District/WYVA</b> is permitted to request medical information from the parents, if the parents do not have or refuse to provide the information, and the school determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to make an appropriate evaluation consistent with 34 C.F.R 104.35, the school must ensure that the child receives this assessment at no cost to the parents.</li><li>● Ameliorative effects of mitigating measures, with the exception of ordinary eyeglasses and contact lenses, will not be considered in making an eligibility determination (e.g., when evaluating a student who is taking medication as a mitigating measure, <b>Niobrara County School District/WYVA</b> should evaluate the "substantially limits" prong as if the student were not taking medication; typically, relevant information can be obtained from the parent or the student's physician).</li><li>● Review Section 504 eligibility criteria in preparation for initial conference.</li></ul>
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<p><b>Initial Conference</b></p>	<ul style="list-style-type: none"><li>● <b>Send Notice of Section 504 Conference to invited participants.</b></li><li>● Invite additional participants as appropriate, which could (but is not required to) include —building administrator or designee, parent/guardian, child, teacher(s), school nurse (medical issues), counselor, others familiar with the student as appropriate.</li><li>● Offer another copy of <b>Section 504 Procedural Safeguards</b></li><li>● <b>Review all evaluative data and carefully consider the input of all team members and the parents.</b></li><li>● <b>The team will need to make the following determinations:</b><ul style="list-style-type: none"><li>○ Does the student have a disability under Section 504?</li><li>○ If so, does the student need accommodations and/or related aids under Section 504?</li></ul></li></ul>
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<p><b>Develop the Plan</b></p>	<ul style="list-style-type: none"> <li>● If found eligible, develop the <b>Section 504 Plan</b>.</li> <li>● Obtain signatures.</li> <li>● Provide copies of <b>Section 504 Plan</b> to parents.</li> </ul>
<p><b>Implement the Plan</b></p>	<ul style="list-style-type: none"> <li>● 504 Coordinator, or designee, shall inform all employees involved with the student of the existence and content of the Section 504 plan.</li> <li>● 504 Compliance Officer, or designee, shall ensure that all employees receive appropriate training to execute responsibilities under the plan.</li> </ul>
<p><b>Review the Plan</b></p>	<ul style="list-style-type: none"> <li>● Plan shall be reviewed at least once a year.</li> <li>● With every review conference, a <b>Section 504 Procedural Safeguards</b> is sent to the parents.</li> <li>● Invite all participants.</li> <li>● If the student continues to be eligible, the <b>Section 504 Plan</b> is revised accordingly.</li> <li>● Obtain signatures</li> <li>● Provide copies of Section 504 Plan to parents.</li> </ul>
<p><b>Re-evaluation</b></p>	<ul style="list-style-type: none"> <li>● The student must be reevaluated periodically. Send Section 504 Parent Invitation along with Section 504 Procedural Safeguards.</li> <li>● If a formal evaluation is needed, follow all evaluation procedures (see previous section on evaluation).</li> <li>● At the meeting, if the student continues to be eligible, complete an updated Section 504 Plan.</li> <li>● Obtain signatures.</li> <li>● Provide copies of Section 504 Plan to parents.</li> </ul>



<p style="text-align: center;"><b>Exiting/ Discontinuation of 504 Plans</b></p>	<ul style="list-style-type: none"> <li>● Exiting of 504 services, after the 504 team’s reevaluation, determines the student no longer qualifies as being eligible.</li> <li>● Parent Revocation</li> </ul>
<p style="text-align: center;"><b>Discipline</b></p>	<ul style="list-style-type: none"> <li>● Before a student can be suspended for more than 10 consecutive days or expelled, a Manifestation Determination Meeting must be held. Contact the 504 Compliance Officer if a student will be suspended for 10 cumulative days, but not consecutive days.</li> <li>● Send the Section 504 Parent Invitation and Section 504 Procedural Safeguards to notify the parent of the conference.</li> <li>● Review placement data. Is current evaluation information sufficient to make a determination? If placement occurred over a year ago, additional evaluation may be warranted.</li> <li>● At the conference, offer Section 504 Procedural Safeguards and complete the Manifestation Determination Review. If the Section 504 Plan is appropriate/implemented to fidelity and there is no causal or substantial relationship between the student’s behavior and identified impairment, a possible change of placement may continue.</li> </ul>