



- Connecting Change to PA's Context
  - Implications for PA's rules
  - Connecting to Gaskin and other PA requirements
- Regional Forums
  - To provide information on the new law and the changes
  - To obtain field input that informs and guides State Board and PDE

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# Federal Regulations - OSEP

April 2005

- Held informal hearings January February 2005
  - Gathered comments/recommendations regarding changes to parts 300 and 313 of the Code of Federal Regulations (34 CFR) needed to clarify/implement IDFIA
- Plan for proposed federal regulations July 2005; final federal regulations December 2005
- Commitment to an expedited process

State Regulations—
PA State Board of Education &
PA Department of Education

- State Board Chapter 14
- PDE Chapter 711
- Input from April regional forums will be shared
- Note: A "red flag" suggests that the new IDEIA may not be implemented until the State Board of Education and/or PDE revise regulations and policy.

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# Purpose of Changes



- More emphasis on outcomes, not process
- Aligning NCLB with IDEIA
- More federal direction to state level activities
- Prioritizing specific monitoring outcomes
- Less adversarial dealings between parents and schools
- Reduction in paperwork and meeting time

Evalu

Evaluation/Reevaluation



#### **Initial Evaluation**



- 60 calendar days to complete evaluation or within Stateestablished timeframe (PA currently 60 school days until notified otherwise)
  - Relief from timeline if child transfers or if child not present for evaluation



- If parent refuses services or fails to respond to request for services
  - LEA not required to convene IEP meeting or develop IEP
  - LEA not in violation of provision of FAPE
- LEA must make reasonable attempts to obtain parental consent for children who are wards of the state, but if cannot, not required



# Evaluation Procedures



- Assessments provided/administered in language and form most likely to yield accurate academic, developmental and functional information
- For children who transfer, sending and receiving schools coordinate efforts to complete evaluation expeditiously
- For specific learning disability
  - LEA not required to consider severe discrepancy between achievement and ability
  - LEA may use response to scientific, research-based intervention

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#### Evaluation Procedures (cont/d)



- in response to concerns regarding requiring students to experience failure before being considered for special education services
- Emphasis on research-based instructional interventions that are documented prior to referral



#### Reevaluation



- Not more than once a year
- At least once every three years unless parent and LEA agree it is unnecessary
  - PARC Consent Decree requires reevaluation of students with mental retardation at least every two years

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# Evaluations Before Change in Eligibility

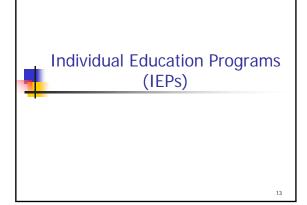
- LEA must provide summary of child's academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals
  - Still required to reevaluate before determining child no longer eligible



#### **Evaluation/Reevaluation**

Issues

Recommendations





### **IEP Team Attendance**



- If IEP team member's areas of expertise not being discussed/modified, team member need not attend if parent/LEA agree in writing
- If IEP team member's area of expertise is being discussed/modified, IEP team member may be excused if parent/LEA agree in writing and if member's written input submitted prior to the meeting

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# IEP Development



Parents and LEA may agree not to convene an IEP meeting to make changes to IEP after the annual meeting

- Instead may develop a written document to modify current IEP
- Upon request parent receives revised copy of IEP

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#### **IEPs**



IEP contains statement of

- Short-term objectives (STOs)/benchmarks for children with disabilities who take alternate assessments aligned to alternate standards
  - STOs not required for most students with disabilities
  - PDE has developed <u>draft</u> alternate standards to be submitted to State Board for approval Spring 2005
- Special ed/related services based on peer-reviewed research to extent practicable

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# IEPs: Postsecondary Transition



- Postsecondary transition planning (including courses of study) must begin with IEP in effect at age 16
  - Courses of study at age 14 no longer required
- Transition planning may begin at any age for a student with a disability

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# **IEP: Transfer Students**



- Transfer within state
  - LEA must implement current IEP until LEA adopts current IEP or develops new IEP
- Transfer outside state
  - LEA must implement comparable services until LEA conducts evaluation, if necessary, and develops new IFP
- To facilitate transition, sending and receiving schools take reasonable steps to send/obtain child's records



- Purpose: provide opportunity for long-term planning
- Comprehensive, not to exceed 3 years, designed to coincide with natural transition points
- USDE Secretary may approve up to 15 states' proposals
- USDE Secretary must submit report in 2 years

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- Issues
- Recommendations

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# Procedural Safeguards: Surrogate Parents



- For child who is a ward of the state, judge overseeing child's care may appoint a surrogate who may be an employee of the SEA, the LEA or other agency not involved in the education/care of the child
- For unaccompanied homeless youth, LEA must appoint surrogate
- Surrogate must be appointed within 30 days after determination of need

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Procedural Safeguards Notice (PSN)



- LEA obligation to give copy to parents only
   1 time per year, except also given upon
  - Initial referral or parental request for evaluation
  - First occurrence of filing of due process complaint
  - Parent request
  - With notice of disciplinary change of placement

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# Due Process Procedural Safeguards Notice



PSN to contain explanation of

- Timeline to submit due process complaint (2 years)
- Opportunity to resolve the complaint (resolution session)
- Timeline for filing civil actions (90 days or as State law allows)



# **Due Process Complaint**



- Two-year statute of limitations for filing due process complaint notice
- Parent or LEA may request a due process hearing
- Requirements for due process complaint notice
- Either party may dispute whether notice meets requirements

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# Due Process Hearing



Opportunity to Resolve Due Process Hearing Complaints

- Starts with a specific written complaint from parent/ IFA
- Requires "preliminary meeting" within 15 days to resolve complaints before a hearing begins, unless waived in writing by both parties
- No attorney for district unless parents have an attorney
- Attorney fees can be awarded to SEA or LEA under specific circumstances

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# Timeline for Requesting Due Process Hearing



Hearing must be requested within 2 years of alleged action, unless parent prevented due to

- Misrepresentation by LEA that problem was resolved
- LEA withheld information from parent

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### Award of Attorneys' Fees



The court may award reasonable attorneys'

- Against the attorney of a parent who
  - Files a complaint that is frivolous, unreasonable, or without foundation
- Continued to litigate after the litigation clearly become frivolous, unreasonable, or without foundation
- Against the attorney of a parent or against the parent if parent's complaint was presented to harass, cause unnecessary delay, or needlessly increase cost of litigation

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# Purpose of Changes: Discipline

- Simplify process of immediate response to dangerous situations
- Reduce paperwork burden
- Maintain protections of provision of FAPF
- Maintain manifestation determination

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#### Discipline



- For removals of more than 10 school days, when behavior not a manifestation of child's disability, FAPE must be provided but may be provided in an interim alternative educational setting
- In PA, 10/15 day rule still applies

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### Discipline (cont'd)



- Unilateral removal for drugs, weapons, serious bodily injury violations, whether or not a manifestation of child's disability, can be for up to 45 school days to interim alternative educational setting
  - Parent must be notified with PSN
  - FAPE must be provided
  - Manifestation determination must be conducted
  - FBA, behavior intervention services must be provided

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# Procedural Safeguards/ Discipline

- Issues
- Recommendations

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#### **Additional Changes**

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### New Funding Formula



- Establishes 6 year path to reach 40% goal, however
- The USDE estimate 2005-06 Federal grant provides only a 2-3% increase for PA Local Education Agencies (LEAs)
- States may use up to 10% of state-level activities funds to establish "risk pools" to reimburse school districts for "high-need; lowincidence, catastrophic or extraordinary aid" (PA has a state "Contingency Fund")

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#### Early Intervening



- Permits school districts to use up to 15% of the Part B grant for "early intervening" as follows:
  - To develop and implement coordinated early intervening services for students K through 12 who are not identified as disabled but need "additional academic and behavioral support to succeed in a general education environment"
  - Emphasis is on K through 3
    - Professional development
    - Providing educational and behavioral evaluations, services and supports



# Federal Monitoring Priorities

- Quantifiable indicators shall be used to monitor the priority areas:
  - Provision of FAPF
  - Child find, effective monitoring, due process resolution sessions, mediation, and a system of transition services
  - Disproportionate representation of racial and ethnic groups (Currently these priority areas are in PA monitoring system, except due process resolution session)
- Qualitative indicators, as needed, shall be used to measure performance in the priority areas
- Four levels of federal monitoring response to states



#### **Equitable Participation**

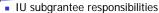


Children in private schools enrolled by their parents to be afforded equitable participation determined by proportionate amount of IDEIA funds available to serve these children

- IU subgrantee shall consult with private school representatives and representatives of parents of children with disabilities regarding
  - Child find process
  - How the consultation process will operate throughout the year to ensure meaningful participation in special education and related services
  - How, where, and by whom services will be provided



# Equitable Participation (cont'd)





- Written affirmation of input from private schools/parents of students with disabilities
- How, if the private school officials disagree with the LEA on provision or type of services, the LEA shall provide a written explanation of reasons
- Private school official may file a complaint with the SEA
  - If private school official disagrees with SEA decision, may appeal to OSEP

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#### **Definitions**



- Added
  - Core Academic Subject
  - Highly Qualified
  - Homeless Children
  - Limited English Proficient
  - Universal Design
  - Ward of the State
- Modified
  - AT Device- Does not include medical device surgically implanted or replaced (e.g., cochlear implants)
  - Parent- Expanded definition
  - Related Services- Added interpreting services and school nurse services designed to provide FAPE: Does not include medical device surgically implanted or replaced (e.g., cochlear implants)

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#### Implementation - IDEIA

- December 3, 2004 definition of "highly qualified teacher" for purposes of special education becomes effective – anticipate proposal re: PA Bridge Certificate – March 2005
- June 2005 due process updates
  - Review of pre-hearing requirements
     Review and revise Hearing Officer Handbook
  - Discussions with parents and parent advocacy groups
- July 1, 2005 all changes presented are to be implemented except for new evaluation timeline allowing 60 school days (see slide #7) Existing obligations under PARC to students with mental retardation remain (see slide #10 and #23)

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#### Implementation - IDEIA

- July 1, 2005 PDE to have issued new forms and formats
- July 2005 anticipate proposed federal regulations
- December 2005 anticipate final federal regulations
- December 2005 OSEP to have developed model forms by adoption of final regulations
- January 2006 anticipate RFP for paperwork reduction and IEP pilot
- June 2006 Chapters 14 and 711 revisions

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#### **Additional Changes**

- Issues
- Recommendations



# Resources

 Congressional Research Service (CRS) Report available @

http://www.pennyhill.com/education/rl32716.html

- P.L. 108-446 posted at www.pattan.k12.pa.us
  - Go to Federal and PA Special Education Laws and Regulations
  - Then to IDEIA Public Law 108-446
- This presentation and other related materials will be available on PaTTAN website @

http://www.pattan.k12.pa.us