

Individuals with Disabilities
Education Improvement Act
(IDEIA) 2004
P.L. 108-446

What's New?

Regional Forum Sessions

April 2005

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Our Purpose

- 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

- 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 IDEIA
- Plan for proposed federal regulations July 2005; final federal regulations December 2005
- Commitment to an expedited process

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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

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Evaluation/Reevaluation

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Initial Evaluation

- 60 **calendar** days to complete evaluation or within State-established 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


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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)

- **RESPONSE TO INTERVENTION** – 
 - 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

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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

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Evaluation/Reevaluation

- Issues
- Recommendations

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Individual Education Programs (IEPs)

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- ## 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 draft 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 IEP
 - To facilitate transition, sending and receiving schools take reasonable steps to send/obtain child's records
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Multi-Year IEP Demonstration

- 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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Individual Education Programs (IEPs)

- Issues
- Recommendations

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Procedural Safeguards/ Discipline

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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)

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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/LEA
- 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' fees

- 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 FAPE
- 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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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

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Equitable Participation (cont'd)

- IU subgrantee responsibilities
 - 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

<ul style="list-style-type: none"> ■ Added <ul style="list-style-type: none"> ■ Core Academic Subject ■ Highly Qualified ■ Homeless Children ■ Limited English Proficient ■ Universal Design ■ Ward of the State 	<ul style="list-style-type: none"> ■ Modified <ul style="list-style-type: none"> ■ 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

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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>

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