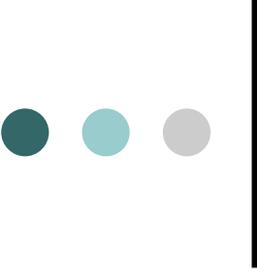




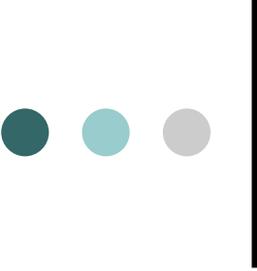
IDEA 2004

Implementation



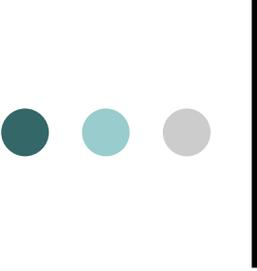
# Overview of Implementation Process

- Purpose of the Guidance Memo
  - Sets Forth What Districts Must Do as of July 1, 2005
  - No Policy Determinations
  - If NJ Rules are Superseded, the New Provisions are Set Forth in the Memo
  - If NJ Rules are Not Superseded, They are Generally Not Part of the Memo



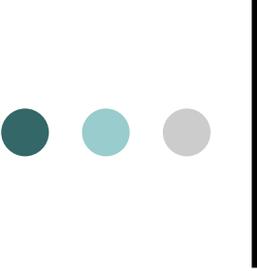
# Overview (continued)

- Key Provisions Where NJ Rules are Not Superseded are Discussed in the Memo to Avoid Confusion. These Include:
  - Amendment of IEP
  - Excusal from Meetings
  - Objectives and Benchmarks
  - Transition



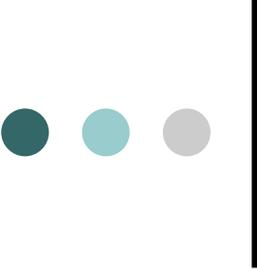
# Overview (continued)

- Rulemaking Process:
  - Analyzing Input
  - First Discussion and Pre-Proposal in October
  - Completion Date June 2006
  - Policy Determinations Will be Made Here
    - All Parts of the Regulations are Being Reviewed
    - 2 Comment Periods Plus Input From Variety of Sources (Districts, Organizations, Parents and Parent Advocacy Groups)



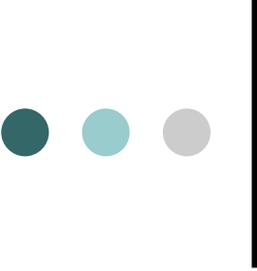
# Overview (continued)

- Categories of Provisions Of IDEA 2004 For Rulemaking Purposes
  - Areas Where State Rules Conflict With IDEA 2004
    - Rules Must Be Changed
  - Areas Where State Rules Exceed or Provide Additional Protections/Services
    - Rules Can Be Retained or Amended
  - Areas Where There is No Federal Provision
    - Can Amend as Deemed Appropriate
    - e.g. Programs and Instruction



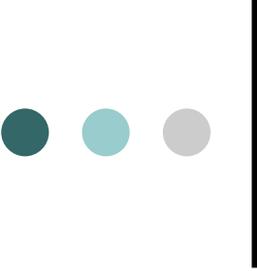
# Overview (continued)

- The Department Has Requested Input With Respect to All Areas In IDEA 2004 Including:
  - Excusal From Meetings
  - Amendment of IEPs Without A Meeting
  - Short-Term Objectives/Benchmarks
  - Paperwork Reduction Pilot
  - 3 Year IEP Pilot
  - Regulatory Barriers to Inclusive Education



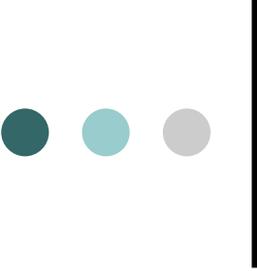
# Overview (continued)

- Notice of Proposed Rule Making from USDOE
  - Published June 21, 2005
  - Proposed Changes Only
  - Cannot Rely on or Follow Them Now
  - Indicates How USDOE MIGHT Interpret Certain Parts of IDEA in Final Rules in December
  - Can be Found at:  
[www.regulations.gov/AGCY\\_EDUCATIONDEPARTMENT.cfm](http://www.regulations.gov/AGCY_EDUCATIONDEPARTMENT.cfm)
  - Comments On the Proposed Regulations are Due September 6, 2005



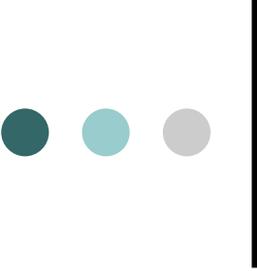
# Highly Qualified Teacher Requirements

- Effective December 3, 2004
- Requirements For Special Education Teachers
  - Full State Certification
  - No Licensure Requirements Waived on Emergency, Temporary or Provisional Basis



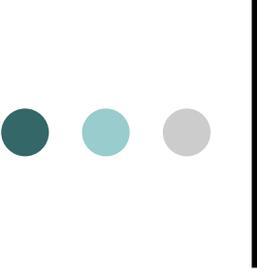
# Highly Qualified Teacher Requirements (Continued)

- Teaching To Alternate Standards
  - All Students Participating in APA
  - Highly Qualified Requirements
    - Elementary Level Instruction – Meet HQ Requirements for an Elementary Teacher
    - If Instruction is Above the Elementary Level – Appropriate to the Level of Instruction Being Provided
- Teaching Multiple Subjects
  - For Veteran Teachers, Must Demonstrate Competence In ALL Core Academic Subjects in Which the Teacher is Teaching
  - For New Teachers, Must Demonstrate Competence in Math, Language or Science, and Has 2 Years From the Hire Date to Demonstrate Competence in All Other Areas in Which they are Instructing



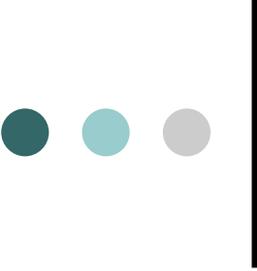
# Peer Reviewed Research

- Special Education and Supplementary Aids and Services Must be Based, to the Extent Appropriate, on Peer-Reviewed Research



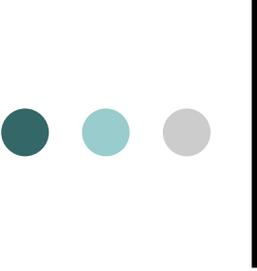
# Assistive Technology

- Medically Implanted Devices Are Excluded by IDEA 2004



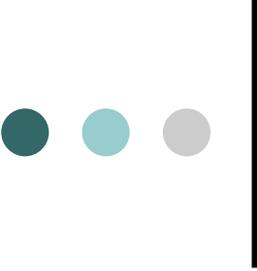
# Mandatory Medication of Students

- Districts are Prohibited from Mandating that Students Obtain a Prescription
- Districts can Consult and Share Observations Regarding:
  - Performance
  - Behavior
  - Need for an Evaluation



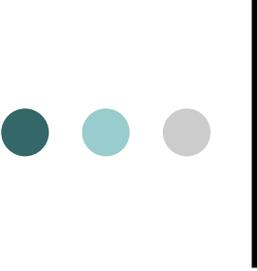
# Surrogate Parents and Wards of the State

- No Consent for Initial Evaluation for a Ward of the State if the Parent Cannot be Found
  - Must Appoint a Surrogate
- Surrogate Parent Requirements:
  - Reasonable Efforts to Appoint in 30 Days
  - A Judge May Appoint a Surrogate Parent
  - Unaccompanied Homeless Youth Must Have Surrogate Parent Appointed



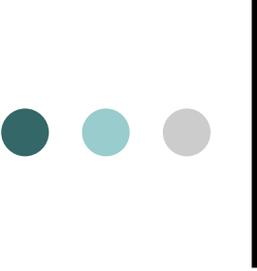
# Excusal From IEP Meetings

- When a Parent Agrees in Writing, IDEA 2004 Permits Excusal of Team Members in Two Situations
- When the Team Member's Area is Not Being Discussed
  - Mandatory Provision in IDEA 2004
  - Goes Into Effect July 1, 2005
- When the Team Member's Area is Being Discussed
  - Permissive Area in IDEA 2004
  - NJ Regulations Exceed IDEA 2004
  - DOES NOT Go Into Effect Unless New Jersey Regulations Are Amended



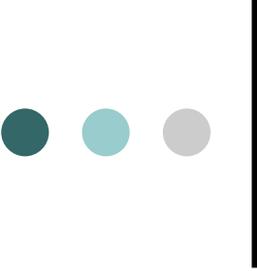
# Academic Achievement and Functional Performance

- Present Levels of Academic Achievement and Functional Performance Statement
  - Replaced PLEP for IEPs Developed on or After July 1, 2005
- Also Must Include Measurable Annual Academic and Functional Goals in IEPs Developed on or after July 1, 2005



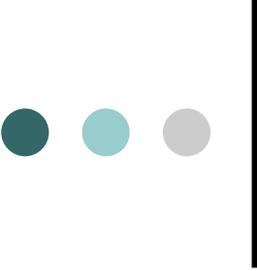
# Benchmarks or Short-Term Objectives

- IDEA 2004 Permits Elimination of Benchmarks or Short-Term Objectives as a Requirement for IEPs, Except for Those for Students Participating in the APA
- New Jersey Regulations Exceed IDEA 2004
  - Benchmarks and Short-Term Objectives Are Still Required in All IEPs, Unless New Jersey Regulations are Amended



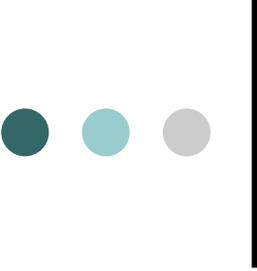
# Amendment of IEP Without Meeting

- IDEA 2004 Permits Amendment of IEPs Without a Meeting if the Parent Consents
- New Jersey Regulations Exceed IDEA 2004 in this Area and Do Not Permit Amendment of IEPs Without a Meeting
- No Amendment of IEPs in New Jersey Unless Our Regulations Are Amended



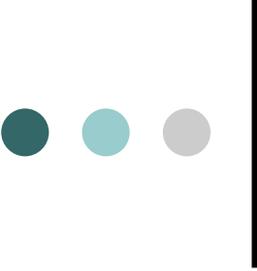
# Students Transitioning From Part C

- At the Request of the Parent, the District Must Invite the Part C Services Coordinator to the Initial IEP Meeting



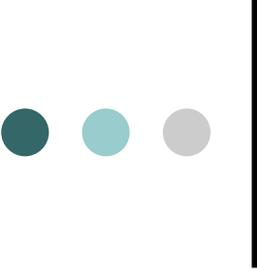
# Transfer Students

- Current Regulations: A Student Must Receive a *Consistent* Program Until the District:
  - Adopts the Current IEP *or*
  - Develops a New IEP
- IDEA 2004: A Student Must Receive a *Comparable* Program Until:
  - For an In-State Transfer:
    - The District Adopts the Student's Current IEP or Develop a New IEP
  - For an Out-of-State Transfer:
    - The District Must Develop a New IEP
- The New Requirements are Effective for Transfers on or After July 1, 2005
- Also, Must Promptly Seek Records for Transfer Students



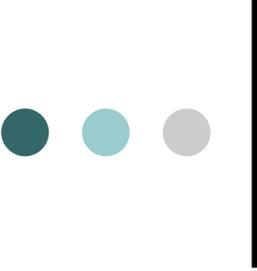
# Transition

- IDEA 2004 Raised the Age to 16
- New Jersey Exceeds IDEA 2004 and Requires Transition at Age 14
- For IEPs for Students Age 16 or Older:
  - Set Forth Appropriate Measurable Post-Secondary Goals Related to Training, Education, Employment, Life Skills
- For IEPs for Students Age 14 or Younger, Follow Standard in NJ Rules



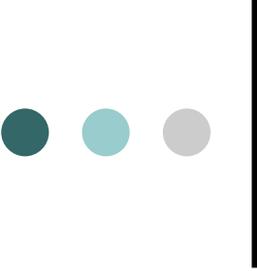
# Graduation or Exceeding Age of Eligibility

- IDEA 2004 Requires a Written Summary of Academic Achievement and Functional Performance
- Also Must Provide Recommendations in Meeting the Student's Post-Secondary Goals



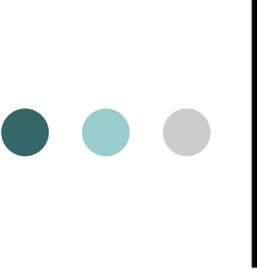
# Assessment in Appropriate Language or Form

- Instead of “Native Language,” Assess in Language or Form Most Likely to Yield Accurate Information
- Already Part of the NJ Definition of Native Language. (IEP Team Determines Student’s Language)
- IDEA 2004 Clarifies That A Student’s Language is the Language or Form Most Likely to Provide Accurate Information



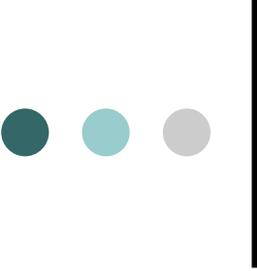
# Specific Learning Disability

- Can Still Use Severe Discrepancy
- IDEA 2004 Allows Districts to Choose to Use a Response to Scientifically Based Interventions (RTI) Methodology



# Consent Provisions in IDEA 2004

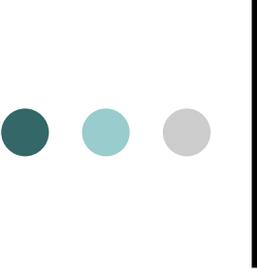
- IDEA 2004 Clarifies that a District May NOT go to Due Process to Compel Consent for Implementation of a Student's Initial IEP
  - No Denial of FAPE
  - No Violation of Child-Find



# Reevaluations

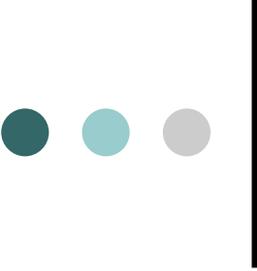
- IDEA 2004

- Not More Than 1 Time Per Year  
UNLESS Parent and District Agree
- 3 Year Evaluation Can Be Waived by  
the District and Parent



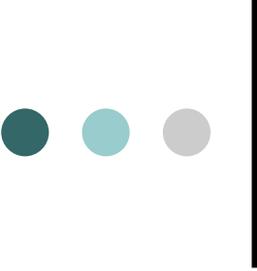
# Equitable Participation Services

- District Where School Is Located Required to Provide the Services According to IDEA 2004
  - Implementing All Requirements Now Except:
    - Notified USDOE That the District of Residence Will Provide Services for the 2005-2006 School Year So Needed Data Can Be Acquired
    - Data Will Be Collected in the December 1 Count
    - Other New Requirements Are In Place Now
      - Consultation With Private Schools Located Within District
      - Appeals to State and USDOE



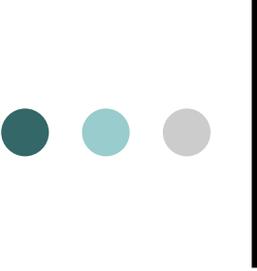
# Dispute Resolution

- Separate Guidance
- Significant Changes to the Due Process System:
  - 2 Year Period to File
  - 90 Days to Appeal
  - Answers and Notice (10 Days)
  - Objection to Notice (15 Days, 5 to Decide)
  - Amendment (Agreement or ALJ)



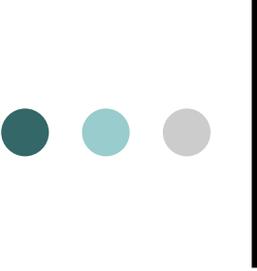
# Dispute Resolution (Continued)

- Resolution Session
  - 30 Days (Schedule within 15)
  - Mandatory unless Agree to Mediation or Both Parties Waive it Resolution Session
  - Discussions Not Confidential
  - Legally Binding Agreement
  - 3 Days to Void Agreement
  - Enforceable in Court
- No Due Process to Contest Whether Teacher is HQ
- Attorney Fees for Districts (Frivolous, Harass, Delay)
- Still Have Emergency Relief
- Expedited Hearing in 20 School Days, Decision in 10



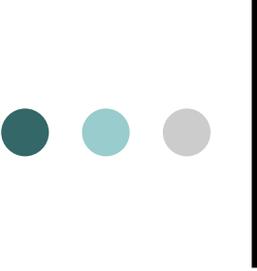
# Discipline Effective July 2005

- Unique Circumstances
  - A district Can Consider Unique Circumstances When Deciding Whether to Impose Discipline for Violating a Code of Conduct
- Manifestation Determination
  - Caused By, Or Was in Direct and Substantial Relationship to the Student's Disability, or
  - Direct Result of Failure to Implement IEP



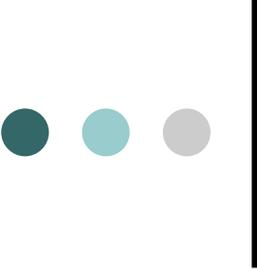
# Discipline (Continued)

- When Conduct is a Manifestation
  - Must Conduct Functional Behavioral Assessment
  - Develop or Review Behavior Intervention Plan
- Special Circumstances: Can Remove a Student to an Interim Alternative Educational Setting (IAES) for 45 School Days for offenses involving:
  - Drugs
  - Weapons
  - Serious Bodily Injury (Definition Was Added Also)
- School Days: Any Day Students Attend School



# Discipline (Continued)

- Authority of Hearing Officer
  - Can Place in Interim Alternative Educational Setting for Not More Than 45 School Days for dangerousness
  - Can Seek Additional 45 Days
- Placement During Appeals
  - IAES Until the Case is Decided or the Period of the Ordered Removal, Whichever Occurs First



# Discipline (Continued)

- Basis of Knowledge
  - Parent Expressed Concern in Writing
  - Parent Requested an Evaluation
  - Teacher or LEA Staff Expressed Specific Concerns