

**Issue/Holding:** During due process proceedings regarding the sufficiency of a proposed IEP, which party bears the burden of persuasion? Though the Individuals with Disabilities Education Act (IDEA) remains silent on the burden of persuasion, the typical rule applies in this situation: the burden falls to the party seeking relief. Practically speaking (and in this particular case), this means that the parents or guardians will normally bear the burden of demonstrating that the IEP is inappropriate at an administrative due process hearing under IDEA. Examples of when the school district would bear the burden include requesting a due process hearing to enforce a change in services in an IEP when the parent disagrees and wants to keep the present services in place. Additionally, if the school district disagrees with a parent's request for an independent evaluation and refuses to fund the evaluation, it may opt for a due process hearing to support the adequacy of its assessments. In these events, the school district would then bear the burden of persuasion.

**Rule:** Because the text of the IDEA does not speak to the issue of which party carries the burden, the Court applied the default rule in which the plaintiff is responsible for proving his case.

**Facts/Application:** A child with learning disabilities and speech-language impairments attended a private school through the seventh grade, until the school determined it could no longer meet his educational needs. Before entering eighth grade, the student's parents attended an IEP meeting with the public school, but ultimately rejected the public school's proposed educational plan. They subsequently enrolled the child in another private school and requested a due process hearing regarding the IEP and the cost of private school attendance.

Initially, the administrative law judge (ALJ) held that the parents bore the burden of persuasion, ruling in favor of the school district. The parents then filed in federal district court. The district court reversed the ALJ's decision, saying the burden lay with the school district. The Fourth Circuit reversed that decision, citing the traditional rule placing the burden of persuasion upon the plaintiff (in this case, the parents).

The Supreme Court acknowledged that IDEA—which governs IEPs and the procedural grievance process—is silent on the burden of proof. It affirmed the Fourth Circuit's ruling that the customary rule assigns the burden of persuasion to the plaintiff. To support this position, the Court indicated that it is highly unusual to place the burden of proof on the respondent from the beginning. It also highlighted the fact that, despite having fewer resources, there are sufficient procedural protections in place in order for parents to successfully support a meritorious claim.