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## Supreme Court Rules that Parents Have Burden of Proof in Challenging their Child's IEP

This bulletin summarizes the November 14, 2005, United States Supreme Court decision in *Schaffer v. Weast* (case No. 04-698) concerning the “burden of proof” in an impartial hearing to determine the appropriateness of an individualized education program (IEP). Additionally, this document describes implications of this decision for New York State.

The Individuals with Disabilities Education Act (IDEA) and New York State Education law, requires school districts to develop and review an individualized education program for each eligible student with a disability. While parents may request an impartial hearing to challenge the appropriateness of the IEP, the IDEA does not indicate as to which party bears the burden of proof at the hearing. The Supreme Court ruled in *Schaffer v. Weast* that the party bringing a challenge to an IEP in a due process hearing has the burden of proving that the student's IEP is inappropriate. Justice Sandra Day O'Connor, joined by five other justices, rendered the majority opinion, stating that the IDEA does not necessarily place the “burden of proof” on the school district. Rather the onus of proof is on whoever brings the challenge – the parents, as in this case, or the school district.

### **Background Information**

This case concerns the educational services to Brian Schaffer, a student with a learning disability and speech impairment residing in Montgomery County, Maryland. From pre-kindergarten through seventh grade he attended a private school. In 1997 Brian's parents contacted Montgomery County Public School System (MCPS) seeking a middle-school placement for him for the following year. Brian's parents were not satisfied with the public school placement offered by MCPS, as they believed he needed smaller classes and more intensive services. The Schaffers subsequently enrolled him in another private school and initiated a due process hearing challenging the school district's IEP and seeking compensation of the cost of this private school education.

The hearing officer ruled in favor of the school district and held that the parents bore the burden of proof, which the parents challenged in civil action. A federal judge for the District of Maryland later ruled that the burden was on the school district. Although Brian's parents eventually accepted a high school placement where he was educated until he graduated from high school, the suit remained alive, however, because the Schaffer's sought reimbursement for the private school tuition.

The school district appealed to the United States Court of Appeals for the Fourth Circuit which reversed the lower court's decision and ruled that the burden belonged to the parents, as the parents offered no persuasive reason to "depart from the normal rule of allocating the burden to the party seeking relief." The Supreme Court subsequently granted certiorari (i.e., chose to review a lower court's decision) to address the following question. *At an administrative hearing assessing the appropriateness of an IEP which party bears the burden of persuasion?*

### **Implications for New York State**

The Supreme Court decision in *Schaffer v. Weast* shifts the burden of proof in New York State from the school district to the party challenging the child's individualized education program. This practice was established through prior case law emanating from the U.S. Court of Appeals for the Second Circuit. The Supreme Court left unresolved, however, the question whether states may adopt laws or regulations that put the burden of proof always on the school district. While case law has imposed burden of proof responsibilities in New York State, absent any statute or regulatory requirements school districts and parents in New York are bound by the *Schaffer* decision which puts the burden of proof on the party seeking relief. The full implications of the decision on special education due process hearing in New York State will become clearer once New York State's State Review office and courts begin to decide cases that have been litigated under the new procedures.

The *Schaffer v. Weast* decision is available on the website for the United States Supreme Court [www.supremecourtus.gov](http://www.supremecourtus.gov).

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