

(6.50) At a special education due process hearing, must I persuade the ALJ that the district has offered my child an inappropriate program or must the district persuade the ALJ that it has offered my child an appropriate program?

The U.S. Supreme Court has decided that whoever is asking the ALJ to order something against the other side, has the burden of proving that what they want is appropriate and that the other side's proposal is not appropriate. This applies to both parents and districts, whichever side files for the hearing. If a parent wants a service or placement in the IEP that the district is unwilling to provide and the

parent files for a due process hearing, the parent must persuade the ALJ that the service or placement is necessary for the student's program to be appropriate. The parent will have to produce enough evidence to persuade the ALJ that his proposal is appropriate and that the district's proposal is not appropriate. [*Schaffer v. Weast*, 546 U.S. 49, 62 (2005).]