

IMMEDIATE ACTION REQUIRED

Contact Your State Legislators To Preserve Your Special Education Rights!

The Issue:

**The burden of proof at due process hearings
must be placed on school districts!**

Parents of students with disabilities have the right to a hearing if they believe that their child is not receiving an appropriate education. The New Jersey Supreme Court ruled in the 1989 *Lascari* decision that the burden of proof at these hearings should be borne by school districts because the school district had access to the information and to the experts needed to show the appropriateness of its educational decisions. In 2005, the United States Supreme Court ruled in *Schaffer v. Weast* that, absent state legislation to the contrary, the burden of proof lies with the party seeking to change the educational services – most frequently the parents. Since 2005, the burden of proof has fallen on parents, making winning at hearings exceedingly difficult -- especially for poor parents who cannot afford lawyers. State legislators have just introduced legislation that will return the burden of proof to school districts, as had been the law in New Jersey from 1989 until 2005. Your support of the legislation is urgently needed.

Action Needed:

**Let your state legislators know that you want the burden of proof at
special education hearings returned to school districts!**

We are asking that parents, families and other advocates send a letter or e-mail to Assembly Education Chair Craig Stanley, as well as a letter or e-mail to Senate Education Chair Shirley Turner, urging that **A4076** and **S2604** be posted to committee as soon as possible. Please also send a copy of the letters or e-mails to the bills' sponsors -- Assemblypersons Cryan, Voss and Wolfe and Senators Sweeney and Doria -- as well as a copy to your assemblyperson and state senator.

If you can include a personal story about how difficult it is for parents in due process hearings since the burden of proof has changed, please do so. Otherwise, please send a short message just stating that you support A4076 and S2604. "*Talking Points*" and a sample letter/e-mail are attached.

To find your assemblyperson and state senator, call the Office of Legislative Services at (609) 292-4840 or go to <http://www.njleg.state.nj.us/members/legsearch.asp>.

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