

**Sec. 10-76h-14. Burden of production and proof; unilateral placement**

(a) The party who filed for due process has the burden of going forward with the evidence. In all cases, however, the public agency has the burden of proving the appropriateness of the child's program or placement, or of the program or placement proposed by the public agency. This burden shall be met by a preponderance of the evidence, except for hearings conducted pursuant to 34 CFR Section 300.521.

(b) The hearing officer shall have the authority to bifurcate a hearing regarding a unilateral placement. If the hearing officer determines that the program offered by the public agency is appropriate, it is not necessary to inquire into the appropriateness of the parent's placement.

(c) Notwithstanding subsection (a) of this section, upon a finding that a public agency's placement or program or proposed placement or program is not appropriate, any party seeking reimbursement for a unilateral placement or program shall prove the appropriateness of such placement or program by a preponderance of the evidence.

(Adopted effective July 1, 2000)