

MLC

Frank Edelblut  
Commissioner



Christine M. Brennan  
Deputy Commissioner

133

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, NH 03301  
TEL. (603) 271-3495  
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May 26, 2023

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

Authorize the Department of Education to contract with the individuals shown below to conduct Special Education Impartial Due Process Hearings, State Board of Education Hearings, Vocational Rehabilitation Hearings, and Alternative Dispute Resolution sessions, in an amount not to exceed \$155,000.00, effective upon Governor and Council Approval through June 30, 2025. 35% Federal funds, 65% General funds

Peter T. Foley, Esquire	Vendor Code: 159636
Scott F. Johnson, Esquire	Vendor Code: 177681
Briana Coakley, Esquire	Vendor Code: 278089
James M. Baron, Esquire	Vendor Code: 447275

Funds to support this request are anticipated to be available in FY24 and FY25 in the accounts titled Governance, VR Field Programs–Federal, and IDEA-Special Ed–Elem/Sec, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years within the price limitation through the Budget Office without further Governor and Council Approval, if needed and justified.

<u>ACCOUNT NUMBER</u>	<u>FY 24</u>	<u>FY 25</u>
06-56-56-560510-20220000-046-500464 Consultants	\$50,000.00	\$50,000.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

### EXPLANATION

Appointment of hearing officers is a statutory requirement of administrative agencies. The department is required by State and Federal law to provide Hearing Officers to preside at Due Process Hearings and Alternative Dispute Resolution proceedings.

A Request for Proposals (RFP) was published in the December 21, 2022 issue of the NH Bar Association's NH Bar Journal and also posted on the NH Department of Administrative Services and NH Department of Education's websites on December 15, 2022. Five proposals were received with one withdrawn by the proposer.

A review committee consisting of 2 Attorneys, 1 Director, and 1 Administrator scored the proposals. Four proposals met the criteria of the Request for Proposals (Attachment A). The scoring for the proposals was conducted employing a consensus model.

The role of the committee members was advisory in nature. They provided information, analysis, and recommendations that were presented to the Commissioner of Education. The Commissioner of Education reviews the information provided and makes the final decision regarding the award of such contracts.

Candidates chosen to fulfill Federal and State requirements for hearing officer/alternative dispute resolution officers in the following areas: Special Education Impartial Due Process Hearings, Vocational Rehabilitation Fair Hearings, State Board of Education hearings, mediations and neutral conferences.

Special Education Due Process hearing procedures are complex in terms of the length of time and in the legal issues brought before the hearing officer. The majority of due process hearings involve attorneys who represent school districts and parents. Federal law prohibits hearing officers from being employees of a state agency and, therefore, the department must enter into contracts with attorneys or other individuals with knowledge of state and federal special education laws. Federal law (Individuals with Disabilities Education Act) requires mediation be available upon request. Only twenty to thirty percent of the requests for hearing actually complete the entire process to a decision; mediation is one of the several effective tools that results in dispute resolution that is both cost efficient and less time consuming.

State Board hearings are required under 21-N:11, Duties of Board. The State Board is charged with hearing appeals and issuing decisions which are considered final decisions of the Department of Education for purposes of RSA 541. These appeals are brought to the State Board by individuals with complaints regarding school systems or the Department of Education.

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
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Additionally, in order to comply with the provisions of RSA 200-C:12, the Rehabilitation Act amendments of 1992 and federal and state regulations pertaining to Vocational Rehabilitation, the Department of Education is contracting with individuals for the services of hearing officers. Federal law requires hearings for vocational rehabilitation clients with claims for reimbursement and/or services.

Please note that the contracts with hearing officers represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle said request, and number of cases currently outstanding for each hearing officer. Hearing officers are compensated based on the payment terms outlined in Exhibit C. This schedule was developed based upon the median and average costs of all hearings and mediations held during a one-year time span.

Respectfully submitted,



Frank Edelblut  
Commissioner of Education

FE:sb:emr

Attachment A  
Hearing Officer and Alternative Dispute Resolution Officer

Name of Bidders	Price Limitation
Briana Coakley	\$155,000
Peter Foley	\$155,000
Scott Johnson	\$155,000
James Baron	\$155,000

Name of Reviewers	Title
Elizabeth B.	Esquire, Attorney for the Office of the Commissioner
Diana F.	Esquire, Chief of the Governance Unit
Rebecca F.	Administrator of the Bureau of Student Support
Lisa H-H	State Director for Vocational Rehabilitation Services

	Briana Coakley	Peter Foley	Scott Johnson	James Baron
Average	94.50	90.75	90.75	73.75

Proposal Criteria in the RFP	Weight of Criteria
Expertise/Experience in the field of Administrative Hearings	30
Demonstrated competency in written and verbal communication	20
Experience with Special Education, General Education and Vocational Rehabilitation law	30
Training and experience as a mediator	20
<b>Total</b>	<b>100</b>

The RFP review commenced on February 27, 2023. All 4 vendors will be awarded.

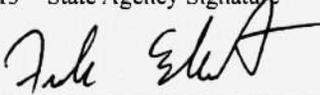
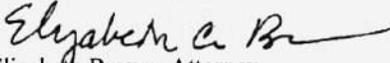
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

State Agency Name Department of Education		State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name Peter T. Foley, Esq.		Contractor Address P.O. Box 2753, Concord, NH 03302	
1.5 Contractor Phone Number (603) 224-6368	Account Unit and Class See Exhibit C	1.7 Completion Date June 30, 2025	Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana E. Fenton, Esq.		1.10 State Agency Telephone Number (603) 271-3189	
1.11 Contractor Signature <b>Peter T. Foley</b> Date: 5-27-23		1.12 Name and Title of Contractor Signatory Peter T. Foley, Esq.	
1.13 State Agency Signature  Date: 6/1/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Elizabeth Brown, Attorney On: 6/1/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

## 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

## 10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

## 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**EXHIBIT A  
SPECIAL PROVISIONS**

Additional Exhibits D-G

**Federal Certification 2 CFR 200.415**

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

1. A certificate of Good Standing issued by the Secretary of State is not required for individuals contracting in their own name (as individuals, not as business organizations).
2. A contractor who is contracting in his or her individual capacity does not need a Certificate of Vote/Authority, but the contractor must represent in the contract Exhibit A of the Form P-37, that he or she is a sole proprietor of the business.
  - a. I, Peter T. Foley, am a sole proprietorship. As such, **I am not** a corporation, partnership, or limited liability company etc.
3. Peter T. Foley represents that he currently has no employees, and as such, is effectively exempt from RSA 281-A. If he should hire any employees, however, he would be required to comply with Paragraph 15 of the P-37.
4. Remove the insurance requirements under Section 14.1.1 of the P-37. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

Amica Mutual Insurance Company

*Contract between Peter T. Foley, Esq. and the New Hampshire Department of Education*

*Contractor Initials* PTF  
*Date* 5-27-23

**EXHIBIT B**  
**SCOPE OF SERVICES**

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Governance Unit.

In the role of **Hearing Officer**, upon assignment of a case by the Governance Unit, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
3. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
4. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
5. Conduct pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Governance Unit.
6. Explain subpoena process to parties. Issue subpoenas as necessary.
7. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
8. Make written findings of facts following the hearing.
9. Make written rulings of law following the hearing.
10. Issue timely responses to all motions/continuance requests of the parties.
11. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer.
12. Provide an electronic version in Microsoft Office Word, or as directed by the Governance Unit, of the Hearing Officer decision to the Governance Unit.
13. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Governance Unit.
14. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing, and accounting.

*Contract between Peter T. Foley, Esq. and the New Hampshire Department of Education*

*Contractor Initials* PTF  
*Date* 5-27-23

**EXHIBIT B continued**

15. Provide updates on cases to the Governance Unit by no later than noon on Monday for the prior week.
16. Attend training sessions as scheduled by the Governance Unit.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator, Moderator or Neutral Officer), upon assignment of a case by the Governance Unit, the contractor shall:

17. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
18. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
19. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
20. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
21. Ensure timely responses to all inquiries of the parties.
22. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Governance Unit.
23. If serving as Mediator, the Mediator will notify the Hearing Officer and Governance Unit of the outcome of mediation sessions in a timely manner.
24. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/moderator session/neutral conferences, bookkeeping, up-to-date billing and accounting.
25. Provide updates on cases to the Governance Unit by no later than noon on Monday of each week.
26. Attend training sessions as scheduled by the Governance Unit.

*Contract between Peter T. Foley, Esq. and the New Hampshire Department of Education*

*Contractor Initials* PTF  
*Date* 5-27-23

**EXHIBIT C  
METHOD OF PAYMENT**

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2025. This schedule was developed based on the median and average costs of all hearings and mediations held during a one-year time span.

<b>Mediation/Neutral Conference</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
<ul style="list-style-type: none"> <li>• Full Day (More than 3 hours) - \$300 (example 9-4)</li> <li>• Less than 3 hours - \$200 (example: 9-noon; noon - 3)</li> <li>• Second Day - \$175</li> </ul>			
<b>Prior to Pre-Hearing</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$200</i>			
Sufficiency hearing - \$225			
<b>Hearing</b>		<b>Date</b>	
Pre-Hearing - \$200			
Hearing –			
<ul style="list-style-type: none"> <li>• 1<sup>st</sup> Day – More than 3 hours \$325; Less than 3 hours - \$205</li> <li>• 2<sup>nd</sup> Day - More than 3 hours \$325; Less than 3 hours - \$205</li> </ul>			
<b>Post-Hearing</b>		<b>Date</b>	
Prepare decision - \$305			
<ul style="list-style-type: none"> <li>• Hearing Decision</li> <li>• Summary Judgment</li> </ul>			
Report and Recommendation - \$250 (State Board)			
State Board – Findings of Fact/Rulings of Law - \$105 (State Board)			
<b>Miscellaneous</b>	<b>Date</b>	<b>Details</b> (mileage, time, other information necessary)	<b>Payment</b> <b>(Less \$150.00 upon acceptance)</b>
Preparation of subpoenas (Total for case) \$50			
Mileage - \$0.625/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> <li>• ½ day (four hours or less) - \$200.00</li> <li>• Full day - \$350.00</li> </ul>			Not Applicable
Evaluation meeting \$50.00			

*Contract between Peter T. Foley, Esq. and the New Hampshire Department of Education*

Contractor Initials PTF  
Date 5-27-23

**EXHIBIT C continued**

File Preparation (includes Indexes, Admin file, Pre-hearing checklists) – \$50 per case if at close of settlement; withdrawal; dismissal <i>or</i> \$100 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$60.00**			
OTHER - Describe			

Items not covered in this schedule - *From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.*

*\*If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

*\*\*Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

*\*\*\*See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 **not** \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funds to support this request are anticipated to be available in FY24 and FY25 in the accounts titled Governance, VR Field Programs–Federal, and IDEA-Special Ed–Elem/Sec, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council Approval, if needed and justified.

<u>ACCOUNT NUMBER</u>	<u>FY 24</u>	<u>FY 25</u>
06-56-56-560510-20220000-046-500464 Consultants	\$50,000.00	\$50,000.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above supported by a summary of activities/completed deliverables that have taken place in accordance with the terms of the contract, along with a detailed listing of expenses incurred. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed. A final invoice is due within 30 days of the end of this contract. Invoices and receipts shall be submitted electronically to:

Stephen W. F. Berwick, Administrator  
[Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov)

*Contract between Peter T. Foley, Esq. and the New Hampshire Department of Education*

*Contractor Initials* PTF  
*Date* 5-27-23

## EXHIBIT D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### **Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

#### **Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

#### **Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials PTF  
Date 5-27-23

## Exhibit E

### Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
  1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials PTF  
Date 5-27-23

## Exhibit F

### Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials PTF  
Date 5-27-23

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials PTF  
Date 5-27-23





# Peter T. Foley

## EDUCATION

Georgetown University Law Center, Washington, D.C., J.D. *cum laude*

American Criminal Law Review: Editor/Member

Stonehill College, North Easton, MA, A.B. *magna cum laude*, Political Science

## EMPLOYMENT

### LEGAL

#### **Foley Law Office, Concord, New Hampshire**

##### **Sole Proprietor, July 1991-present**

Established and maintain private law practice specializing in administrative law, civil and appellate litigation, mediation services, and sports law.

Representative clients: New Hampshire Retirement System, NH State Board of Education, High School athletes denied right to participate by NHIAA.

#### **State of New Hampshire, Office of the Attorney General, Concord, NH**

##### **Senior Assistant Attorney General, 1986-1991,**

##### **Assistant Attorney General, 1983-1986,**

##### **Attorney, 1981-1983**

Member of management team of fifty-attorney law office with emphasis on the hiring and supervision of professional staff of the Office's Civil Bureau.

As Litigation Coordinator, organized and oversaw all aspects of the Civil Bureau's state and federal litigation, including case assignment, discovery, pretrial practice, settlement negotiation and jury trial preparation and presentation.

As Assistant Attorney General, advised state agencies and officials regarding legal aspects of departmental administration including statutory interpretation, administrative rulemaking, contract negotiation and contract drafting. Maintained individual litigation caseload in state and federal courts with extensive involvement in the defense of medical negligence claims and §1983 civil rights actions. Wrote legal briefs and orally argued on behalf of state agencies and officials in civil appellate proceedings in the New Hampshire Supreme Court and the First Circuit Court of Appeals.

## HIGHER EDUCATION

**University of New Hampshire School of Law, Concord, New Hampshire,**

**Adjunct Professor, 1992-present**

Designed and taught four law school courses:

*Intellectual Property Issues in Sports and Entertainment Law* - Used sports and entertainment industry case studies to teach principles of copyright, publicity rights and trademark law.

*Dispute Resolution in Professional Sports* - Examined principles of contract, antitrust and labor law within the context of the four major U.S. professional sports leagues.

*Individual Rights in Intercollegiate and International Sports* - Examined principles of constitutional law and civil rights law within the context of intercollegiate and international athletics.

*Advanced Legal Writing* - Used New Hampshire litigation case studies to teach advanced legal writing skills to second and third year law students.

## POLITICS

**Kerry-Edwards Campaign, Manchester, New Hampshire, 2004**

**Associate New Hampshire Counsel**

Member of five-person core legal team of New Hampshire Democratic State Party Coordinated Campaign with individual specialty in student voting legal intervention and protection. Unprecedented college student registration and turnout provided margin of Democratic victory in 2004 NH Presidential and Gubernatorial elections.

**Dean for America, 2003-2004**

**Co-Legal Counsel, New Hampshire, Maine and Wisconsin GOTV Program**

Established and coordinated a network of volunteer attorneys and law students to provide Election Day registration information and legal protection to college students and other individuals seeking to register to vote in 2004 Democratic primaries.

## MEDIA

**New Hampshire Public Radio, Concord, New Hampshire**

**Commentator, April 1998-2004**

Wrote and recorded sports humor essays for NHPR's local segments of National Public Radio's daily news programs, Morning Edition and All Things Considered.

**KUSC Radio, Los Angeles, California**

**Commentator, *Marketplace*, September 1997-2001**

Wrote and recorded sports law/business essays for Public Radio International's nationally syndicated daily business news program.

**Monitor Radio, Boston, Massachusetts**

**Commentator, March 1995-July 1997**

Wrote and recorded sports law/business essays for the Christian Science Monitor's internationally syndicated daily news program.

**PUBLICATIONS**

**LEGAL/BUSINESS/HUMOR, 1992-2004**

Author of numerous sports law, sports business and sports humor pieces in a variety of publications including *The New York Times*, *Boston Globe*, *Legal Times* and *Baseball America*.

**BOARD MEMBERSHIP**

NARAL Pro-Choice New Hampshire Political Action Committee (2011-2014)

New Hampshire Workers' Compensation Appeals Board (1991-2003)

**BAR MEMBERSHIP**

State of New Hampshire (1981)

**ORGANIZATIONS**

Member—Sports Lawyers Association

**REFERENCES**

References available upon request

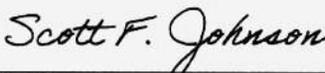
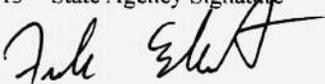
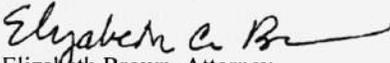
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

State Agency Name Department of Education		State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name Scott F. Johnson, Esq.		Contractor Address P.O. Box 549, Warner, NH 03278	
1.5 Contractor Phone Number (603) 224-6368	Account Unit and Class See Exhibit C	1.7 Completion Date June 30, 2025	Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana E. Fenton, Esq.		1.10 State Agency Telephone Number (603) 271-3189	
1.11 Contractor Signature  Date: 05/26/23		1.12 Name and Title of Contractor Signatory Scott F. Johnson, Esq.	
1.13 State Agency Signature  Date: 6/1/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Elizabeth Brown, Attorney On: 6/1/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

## 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

## 10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

## 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**EXHIBIT A  
SPECIAL PROVISIONS**

Additional Exhibits D-G

**Federal Certification 2 CFR 200.415**

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

1. A certificate of Good Standing issued by the Secretary of State is not required for individuals contracting in their own name (as individuals, not as business organizations).
2. A contractor who is contracting in his or her individual capacity does not need a Certificate of Vote/Authority, but the contractor must represent in the contract Exhibit A of the Form P-37, that he or she is a sole proprietor of the business.
  - a. I, Scott F. Johnson, am a sole proprietorship. As such, **I am not** a corporation, partnership, or limited liability company etc.
3. Scott F. Johnson represents that he currently has no employees, and as such, is effectively exempt from RSA 281-A. If he should hire any employees, however, he would be required to comply with Paragraph 15 of the P-37.
4. Remove the insurance requirements under Section 14.1.1 of the P-37. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

Concord Group Insurance

*Contract between Scott F. Johnson, Esq. and the New Hampshire Department of Education*

*Contractor Initials* SFJ  
*Date* 05/26/23

**EXHIBIT B**  
**SCOPE OF SERVICES**

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Governance Unit.

In the role of **Hearing Officer**, upon assignment of a case by the Governance Unit, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
3. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
4. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
5. Conduct pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Governance Unit.
6. Explain subpoena process to parties. Issue subpoenas as necessary.
7. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
8. Make written findings of facts following the hearing.
9. Make written rulings of law following the hearing.
10. Issue timely responses to all motions/continuance requests of the parties.
11. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer.
12. Provide an electronic version in Microsoft Office Word, or as directed by the Governance Unit, of the Hearing Officer decision to the Governance Unit.
13. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Governance Unit.
14. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing, and accounting.

*Contract between Scott F. Johnson, Esq. and the New Hampshire Department of Education*

*Contractor Initials SFJ*  
*Date 05/26/23*

**EXHIBIT B continued**

15. Provide updates on cases to the Governance Unit by no later than noon on Monday for the prior week.
16. Attend training sessions as scheduled by the Governance Unit.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator, Moderator or Neutral Officer), upon assignment of a case by the Governance Unit, the contractor shall:

17. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
18. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
19. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
20. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
21. Ensure timely responses to all inquiries of the parties.
22. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Governance Unit.
23. If serving as Mediator, the Mediator will notify the Hearing Officer and Governance Unit of the outcome of mediation sessions in a timely manner.
24. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/moderator session/neutral conferences, bookkeeping, up-to-date billing and accounting.
25. Provide updates on cases to the Governance Unit by no later than noon on Monday of each week.
26. Attend training sessions as scheduled by the Governance Unit.

**EXHIBIT C  
METHOD OF PAYMENT**

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2025. This schedule was developed based on the median and average costs of all hearings and mediations held during a one-year time span.

<b>Mediation/Neutral Conference</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
<ul style="list-style-type: none"> <li>• Full Day (More than 3 hours) - \$300 (example 9-4)</li> <li>• Less than 3 hours - \$200 (example: 9-noon; noon - 3)</li> <li>• Second Day - \$175</li> </ul>			
<b>Prior to Pre-Hearing</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$200</i>			
Sufficiency hearing - \$225			
<b>Hearing</b>		<b>Date</b>	
Pre-Hearing - \$200			
Hearing –			
<ul style="list-style-type: none"> <li>• 1<sup>st</sup> Day – More than 3 hours \$325; Less than 3 hours - \$205</li> <li>• 2<sup>nd</sup> Day - More than 3 hours \$325; Less than 3 hours - \$205</li> </ul>			
<b>Post-Hearing</b>		<b>Date</b>	
Prepare decision - \$305			
<ul style="list-style-type: none"> <li>• Hearing Decision</li> <li>• Summary Judgment</li> </ul>			
Report and Recommendation - \$250 (State Board)			
State Board – Findings of Fact/Rulings of Law - \$105 (State Board)			
<b>Miscellaneous</b>	<b>Date</b>	<b>Details</b> (mileage, time, other information necessary)	<b>Payment</b> <b>(Less \$150.00 upon acceptance)</b>
Preparation of subpoenas (Total for case) \$50			
Mileage - \$0.625/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> <li>• ½ day (four hours or less) - \$200.00</li> <li>• Full day - \$350.00</li> </ul>			Not Applicable
Evaluation meeting \$50.00			

*Contract between Scott F. Johnson, Esq. and the New Hampshire Department of Education*

Contractor Initials SFJ  
Date 5/26/23

**EXHIBIT C continued**

File Preparation (includes Indexes, Admin file, Pre-hearing checklists) – \$50 per case if at close of settlement; withdrawal; dismissal <i>or</i> \$100 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$60.00**			
OTHER - Describe			

Items not covered in this schedule - *From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.*

*\*If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

*\*\*Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

*\*\*\*See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 **not** \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funds to support this request are anticipated to be available in FY24 and FY25 in the accounts titled Governance, VR Field Programs–Federal, and IDEA-Special Ed–Elem/Sec, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council Approval, if needed and justified.

<u>ACCOUNT NUMBER</u>	<u>FY 24</u>	<u>FY 25</u>
06-56-56-560510-20220000-046-500464 Consultants	\$50,000.00	\$50,000.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above supported by a summary of activities/completed deliverables that have taken place in accordance with the terms of the contract, along with a detailed listing of expenses incurred. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed. A final invoice is due within 30 days of the end of this contract. Invoices and receipts shall be submitted electronically to:

Stephen W. F. Berwick, Administrator  
[Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov)

*Contract between Scott F. Johnson, Esq. and the New Hampshire Department of Education*

*Contractor Initials SFJ  
 Date 5/26/23*

## EXHIBIT D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### **Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

#### **Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

#### **Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials SFJ  
Date 5/26/23

## Exhibit E

### Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
  1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials SFJ  
Date 5/26/23

## Exhibit F

### Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials SFJ  
Date 5/26/23

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials SFJ  
Date 5/26/23



**ANNIVERSARY RENEWAL DECLARATIONS**

Refer billing, policy or coverage questions to:

Named Insured and Address:

Davis & Towle, Morrill & Everett, Inc.  
PO Box 1260  
Concord, NH 03302  
(603) 224-9551

Scott Johnson  


**THIS IS NOT A BILL.** Your bill will be sent separately.

This Anniversary Renewal Declarations reflects your renewal coverages, rating information and premiums. Any changes in your rating information, such as driving record history, driver's age or credits, are reflected herein.

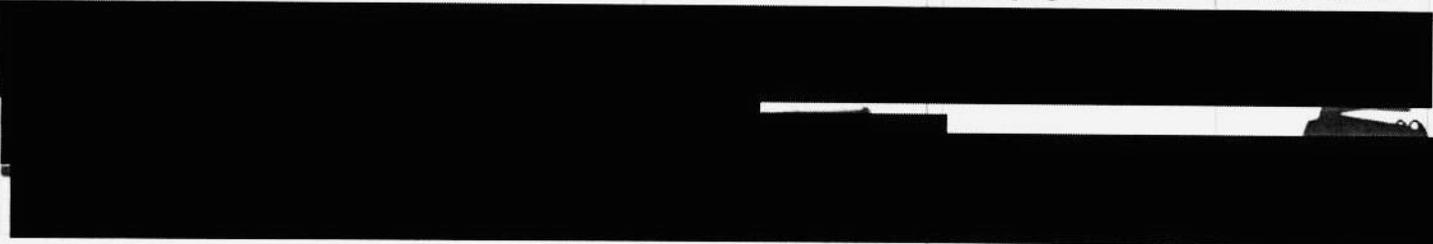
The enclosed policy form(s) becomes part of your policy effective this renewal and should be attached to your policy. Read the form(s) and the explanatory notice carefully.

Please contact your agent with any questions or corrections.

**A Valued Customer Since 2016**

Policy Number	Policy Type	Policy Period	Effective Date	Payment Plan
	Personal Automobile	06/30/2022 TO 06/30/2023 12:01 A.M. Standard Time	06/30/2022	4-Pay

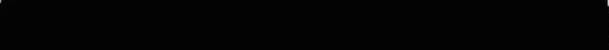
**POLICY PREMIUM SUMMARY**

Veh	Veh Year	Make/Model	Vehicle ID #	Garaging Location	Annual Premium
					

**OTHER COVERAGES**  
**ANNUAL POLICY PREMIUM**



**DRIVERS and DRIVER DISCOUNTS**

#	Name	Date of Birth	License #	State Licensed	Good Student	Distant Student	Defensive Driver
1	Scott Johnson						
							



Scott Johnson

Policy Number

Effective 06/30/2022

**CREDITS and DISCOUNTS**

**Credits and Discounts Applied to Your Policy Premium**

Advance Quote	Paperless
Longevity	Multi-Car Discount
Account Credit	Safe Car

**Total Credits and Discounts:**

**VEHICLES**

#	Year	Make/Model	Comp/Coll Symbol	Zip Code Territory
4			15/15	
			11/11	
			40/29	
			28/12	
			24/15	

**COVERAGES**

Coverage applies when premium is shown

		Veh 1	Veh 2	Veh 3	Veh 4
<b>Bodily Injury</b>	Each Person / Each Occurrence				
<b>Property Damage</b>	Each Occurrence				
<b>Medical Payments</b>	Each Person				
<b>Uninsured / Underinsured Motorists</b>	Each Person / Each Occurrence				
		<b>Veh 1</b>	<b>Veh 2</b>	<b>Veh 3</b>	<b>Veh 4</b>
<b>Other Than Collision</b>		\$250 Ded.	\$250 Ded.	\$250 Ded.	\$250 Ded.
<b>Collision</b>		\$500 Ded.	\$500 Ded.	\$500 Ded.	\$500 Ded.
<b>Transportation Expense</b>	Daily \$20/ Max \$600	Daily \$20/ Max \$600	Daily \$20/ Max \$600	Daily \$20/ Max \$600	
<b>Towing and Labor</b>	\$25 each occurrence	\$25 each occurrence	\$25 each occurrence	\$25 each occurrence	
<b>Personal Auto Coverage Enhancements (PACE)</b>	See form CI 00 36 for special coverage and enhancements				
<b>Personal Auto Coverage Enhancements Plus (PACE+)</b>	See form CI 00 35 for special coverage and enhancements				
		<b>Total Premium for Each Vehicle</b>			
		<b>TOTAL VEHICLE PREMIUM</b>			

**Scott F. Johnson, Esq.**

**Experience**

- 1999 - Present     **Concord Law School at Purdue University Global**  
**Professor of Law.** Develop and teach Administrative Law, Administrative Advocacy, ADR & Technology, Civil Procedure, Constitutional Law, Education Law, Health Law, and Special Education courses in an online platform. Create and grade student assessments. Serve on various academic and faculty governance committees, including Admissions, Curriculum, and Faculty Council.
- 2006 – Present     **New Hampshire Department of Education, Concord, NH**  
**Hearing Officer/Mediator**  
Serve as a hearing officer in education cases, which includes special education, student discipline, teacher licensure, and educational hardship matters. Duties also include serving as a mediator and using other forms of ADR to help parties resolve disputes.
- 2002 - 2006     **Franklin Pierce Law Center, Concord, NH**  
**Visiting/Adjunct Professor.** Developed and taught Education Law, Special Education Law, and Administrative Law classes.
- 1997-2004     **Stein, Volinsky & Callaghan, Concord, NH**  
**Attorney.** Represented clients in administrative, trial, and appellate proceedings with a focus on education law, disability law, employment law, health law, and constitutional law.

**Education**

**Franklin Pierce Law Center, Concord, NH**

- J.D. May 1997

**University of North Carolina at Charlotte, Charlotte, NC**

- B.A., Political Science 1992
- Minor in American Studies

**Bar Admissions**

- Admitted to the New Hampshire Bar November 1997
- Admitted to practice before the New Hampshire Supreme Court, Federal District Court in New Hampshire, First Circuit Court of Appeals, U.S. Court of Appeals for Veteran's Claims, and the United States Supreme Court.

## **Publications**

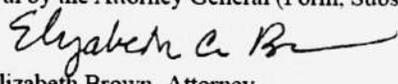
- *What Public School Students Can Say on Social Media May Be About to Change*, The Conversation (2/25/21)
- *Freedom of Speech for Public School Employees*, The Center for Computer-Assisted Legal Instruction (2020)
- *Special Education Law*, 6<sup>th</sup> Edition, with Laura Rothstein, Sage Publications (2020)
- *Education Law: A Problem-Based Approach*, 4<sup>th</sup> Edition, with Sarah E. Redfield Carolina Academic Press (2019)
- *Student Speech*, The Center for Computer-Assisted Legal Instruction (2019)
- *50 Years of Student Speech and the First Amendment*, Concord Connector (4/23/2019)
- *The 14<sup>th</sup> Amendment Protects the Right to a Public Education*, Concord Connector (4/20/17)
- *The United States Court Grapples with the Meaning of FAPE*, Concord Connector (2/2/17)
- *Education Law: A Problem-Based Approach*, 3rd Edition, with Sarah E. Redfield, LexisNexis (2015)
- *Rowley Forever More? A Call for Clarity and Change*, Vol 41, Journal of Law & Education 25 (2012).
- *Special Education Law*, 5<sup>th</sup> Edition, with Laura Rothstein, Sage Publications (2014).
- *New Hampshire Special Education Law Manual: A Guide for Parents, Educators, Advocates & Attorneys*, 4th Edition, NHedLaw, LLC (2008).
- *Administrative Agencies: A Comparison of New Hampshire and Federal Agencies History, Structure and Rulemaking Requirements*, 4 Pierce L. Rev. 435 (2006).
- *Preventing Physical Restraints in Schools: A Guide for Parents, Educators & Professionals*, Education Law Resource Center (2005).
- *Focus on Equality Shifts to Adequacy as Brown v. Board Turns 50*, Vol. 34 Your School and the Law Issue 34 (2004).
- *Reexamining Rowley: A New Focus in Special Education Law*, 2 BYU Education Law Journal 561 (2003).
- *Bragdon v. Abbott: Analysis and Implications for People Living with HIV/AIDS and Other Disabilities*, 40 New Hampshire Bar Journal 1 (1999).
- *HB 117: The State's Plan to Fund Educational Adequacy is Too Little Too Late*, Vol 2. Issue 3 New Hampshire Law Bulletin (June 1999).
- *Suing Under the Americans With Disabilities Act or Seeking Disability Benefits: A Hobson's Choice for People With Disabilities*. Vol. 6, No. 1 Journal of Individual Employment Rights 49 (1997-98).

**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS****1. IDENTIFICATION.**

State Agency Name Department of Education		State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name Briana Coakley, Esq.		Contractor Address 1 Greenleaf Woods Drive, Portsmouth, NH 03801	
1.5 Contractor Phone Number (603) 319-1731	Account Unit and Class See Exhibit C	1.7 Completion Date June 30, 2025	Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana E. Fenton, Esq.		1.10 State Agency Telephone Number (603) 271-3189	
1.11 Contractor Signature Briana Coakley Date: 05/25/2023		1.12 Name and Title of Contractor Signatory Briana Coakley, Esq.	
1.13 State Agency Signature  Date: 6/1/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Elizabeth Brown, Attorney On: 6/1/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

Contractor Initials BC  
Date 5/25/2023

### 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default");

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

### 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

### 10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

### 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CHOICE OF LAW AND FORUM.**

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**EXHIBIT A  
SPECIAL PROVISIONS**

Additional Exhibits D-G

**Federal Certification 2 CFR 200.415**

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

1. A certificate of Good Standing issued by the Secretary of State is not required for individuals contracting in their own name (as individuals, not as business organizations).
2. A contractor who is contracting in his or her individual capacity does not need a Certificate of Vote/Authority, but the contractor must represent in the contract Exhibit A of the Form P-37, that he or she is a sole proprietor of the business.
  - a. I, Briana Coakley, am a sole proprietorship. As such, **I am not** a corporation, partnership, or limited liability company etc.
3. Briana Coakley represents that she currently has no employees, and as such, is effectively exempt from RSA 281-A. If she should hire any employees, however, she would be required to comply with Paragraph 15 of the P-37.
4. Remove the insurance requirements under Section 14.1.1 of the P-37. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

State Farm Insurance

*Contract between Briana Coakley, Esq. and the New Hampshire Department of Education*

Contractor Initials   
5/25/2023

**EXHIBIT B  
SCOPE OF SERVICES**

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Governance Unit.

In the role of **Hearing Officer**, upon assignment of a case by the Governance Unit, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
3. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
4. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
5. Conduct pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Governance Unit.
6. Explain subpoena process to parties. Issue subpoenas as necessary.
7. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
8. Make written findings of facts following the hearing.
9. Make written rulings of law following the hearing.
10. Issue timely responses to all motions/continuance requests of the parties.
11. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer.
12. Provide an electronic version in Microsoft Office Word, or as directed by the Governance Unit, of the Hearing Officer decision to the Governance Unit.
13. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Governance Unit.
14. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing, and accounting.

*Contract between Briana Coakley, Esq. and the New Hampshire Department of Education*

Contractor Initials   
Date 5/25/2023

**EXHIBIT B continued**

15. Provide updates on cases to the Governance Unit by no later than noon on Monday for the prior week.
16. Attend training sessions as scheduled by the Governance Unit.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator, Moderator or Neutral Officer), upon assignment of a case by the Governance Unit, the contractor shall:

17. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
18. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
19. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
20. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
21. Ensure timely responses to all inquiries of the parties.
22. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Governance Unit.
23. If serving as Mediator, the Mediator will notify the Hearing Officer and Governance Unit of the outcome of mediation sessions in a timely manner.
24. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/moderator session/neutral conferences, bookkeeping, up-to-date billing and accounting.
25. Provide updates on cases to the Governance Unit by no later than noon on Monday of each week.
26. Attend training sessions as scheduled by the Governance Unit.

*Contract between Briana Coakley, Esq. and the New Hampshire Department of Education*

Contractor Initials   
Date 5/25/2023

**EXHIBIT C  
METHOD OF PAYMENT**

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2025. This schedule was developed based on the median and average costs of all hearings and mediations held during a one-year time span.

<b>Mediation/Neutral Conference</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
<ul style="list-style-type: none"> <li>• Full Day (More than 3 hours) - \$300 (example 9-4)</li> <li>• Less than 3 hours - \$200 (example: 9-noon; noon - 3)</li> <li>• Second Day - \$175</li> </ul>			
<b>Prior to Pre-Hearing</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$200</i>			
Sufficiency hearing - \$225			
<b>Hearing</b>		<b>Date</b>	
Pre-Hearing - \$200			
Hearing –			
<ul style="list-style-type: none"> <li>• 1<sup>st</sup> Day – More than 3 hours \$325; Less than 3 hours - \$205</li> <li>• 2<sup>nd</sup> Day - More than 3 hours \$325; Less than 3 hours - \$205</li> </ul>			
<b>Post-Hearing</b>		<b>Date</b>	
Prepare decision - \$305			
<ul style="list-style-type: none"> <li>• Hearing Decision</li> <li>• Summary Judgment</li> </ul>			
Report and Recommendation - \$250 (State Board)			
State Board – Findings of Fact/Rulings of Law - \$105 (State Board)			
<b>Miscellaneous</b>	<b>Date</b>	<b>Details</b> (mileage, time, other information necessary)	<b>Payment</b> (Less \$150.00 upon acceptance)
Preparation of subpoenas (Total for case) \$50			
Mileage - \$0.625/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> <li>• ½ day (four hours or less) - \$200.00</li> <li>• Full day - \$350.00</li> </ul>			Not Applicable
Evaluation meeting \$50.00			

Contract between Briana Coakley, Esq. and the New Hampshire Department of Education

DS  
BC

Contractor Initials  
Date 5/25/2023

**EXHIBIT C continued**

File Preparation (includes Indexes, Admin file, Pre-hearing checklists) – \$50 per case if at close of settlement; withdrawal; dismissal <i>or</i> \$100 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$60.00**			
OTHER - Describe			

Items not covered in this schedule - *From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.*

*\*If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

*\*\*Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

*\*\*\*See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 **not** \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funds to support this request are anticipated to be available in FY24 and FY25 in the accounts titled Governance, VR Field Programs–Federal, and IDEA-Special Ed–Elem/Sec, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council Approval, if needed and justified.

<u>ACCOUNT NUMBER</u>	<u>FY 24</u>	<u>FY 25</u>
06-56-56-560510-20220000-046-500464 Consultants	\$50,000.00	\$50,000.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above supported by a summary of activities/completed deliverables that have taken place in accordance with the terms of the contract, along with a detailed listing of expenses incurred. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed. A final invoice is due within 30 days of the end of this contract. Invoices and receipts shall be submitted electronically to:

Stephen W. F. Berwick, Administrator  
Stephen.W.Berwick@doe.nh.gov

Contract between Briana Coakley, Esq. and the New Hampshire Department of Education

Contractor Initials DS  
BC  
 5/25/2023

## EXHIBIT D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

#### Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

#### Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials   
Date 5/25/2023

## Exhibit E

### Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials  Date 5/25/2023

**Exhibit F**

**Anti-Lobbying**

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials   
Date 5/25/2023

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials   
Date 5/25/2023

COAKLEY, BRIANA 2      A-92EB      A

## AUTO RENEWAL

**PREMIUM PAID: \$**

**DO NOT PAY.**

*Your premium is billed through the State Farm Payment Plan*

State Farm Payment Plan Number:

**Your State Farm Agent**

**AILEEN DUGAN**

Office: 603-433-3114

Address: 93 MIDDLE ST  
PORTSMOUTH, NH 03801-4382

*If you have a new or different car, have added any drivers, or have moved, please contact your agent.*

**Thank you for choosing State Farm.**

**Policy Number:** Policy Period: December 18, 2022  
to June 18, 2023



When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund

transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

Policy Number:  
Prepared October 24, 2022  
1004583

Page number 1 of 6

143562 202 01 15 2018



## Drive Safe & Save™ puts you in the driver's seat of your discount.

Get a discount just for enrolling. From there, how you drive determines how much you save.

If you haven't already, download the app and enroll. Text **SAVEMORE** to **42407**; contact your agent, AILEEN DUGAN, at 603-433-3114; or scan this QR code.



Discounts may exceed 30% and vary state to state (NY capped at 30%). Not available in CA, MA, RI. A discount may not be available in NC depending on individual facts and circumstances. Setup required.

**VEHICLE INFORMATION**

**Review your policy information carefully.** If anything is incorrect, or if there are any changes to your vehicle information, please let us know right away.

Vehicle Description	Vehicle Identification Number (VIN)	Who principally drives this vehicle?	How is this vehicle normally used?
[REDACTED]	[REDACTED]	[REDACTED]	To Work, School or Pleasure.

**Other Household Vehicle(s)**

Your premium may be influenced by other State Farm policies that currently insure the following veh [REDACTED]

[REDACTED]  
[REDACTED]

The premium for this renewal was determined using an annual mileage this vehicle is expected to be driven that was developed from information we obtained or was provided by you. The national average is more than 12,000 miles driven annually according to the U.S. Department of Transportation. Please contact us if you expect your annual mileage to change over the next year.

**Premium Adjustment**

Each year, we review our medical payments and personal injury protection coverages claim experience to determine the vehicle safety discount that is applied to each make and model. In addition, we review the comprehensive, collision, bodily injury and property damage claim experience annually to determine which makes and models have earned decreases or increases from State Farm's standard rates. If any changes result from our reviews, adjustments are reflected in the rates shown on this renewal notice.

**DRIVER INFORMATION**

**Assigned Driver(s)**

The following driver(s) are assigned to the vehicle(s) on this policy.

Name	Age as of December 18, 2022	Gender	Marital Status
[REDACTED]			

**Other Household Driver(s)**

In addition to the Principal Driver(s) and Assigned Driver(s), your premium may be influenced by the drivers shown below and other individuals permitted to drive your vehicle. This list does not extend or expand coverage beyond that contained in this automobile policy. The drivers listed below are the drivers reported to us that most frequently drive other vehicles in your household.

[REDACTED]

**Principal Driver & Assigned Drivers**

For each automobile, the **Principal Driver** is the individual who most frequently drives it.

Each driver is designated as an **Assigned Driver** on the household automobile that they most frequently drive. Your

premium may be influenced by the information shown for these drivers.

**IMPORTANT NOTICE REGARDING YOUR PREMIUM**

State Farm works hard to offer you the best combination of price, service, and protection. The amount you pay for automobile insurance is determined by many factors such as the coverages you have, where you live, the kind of car you drive, how your car is used, who drives the car, and information from consumer reports.

You have the right to request, no more than once during a 12-month period, that your policy be re-rated using a current credit-based insurance score. Re-rating could result in a lower rate, no change in rate, or a higher rate. If you would like us to reevaluate your credit-based insurance score or have any questions on how your premium was determined, please contact your State Farm agent.

**COVERAGE AND LIMITS** See your policy for an explanation of these coverages.

A	Liability
	Bodily Injury 250,000/500,000
	Property Damage 100,000
C	Medical Payments 5,000
D	100 Deductible Comprehensive
G	500 Deductible Collision
H	Emergency Road Service
R1	Auto Rental & Travel Expense
	\$50 Per Day, \$1,200 Max
U	Uninsured Motor Vehicle
	Bodily Injury 250,000/500,000
<b>Total Premium</b>	

If any coverage you carry is changed to give broader protection with no additional premium charge, we will give

you the broader protection without issuing a new policy, starting on the date we adopt the broader protection.

**DISCOUNTS** These adjustments have already been applied to your premium.

Multiple Line	✓
Multicar	✓
Vehicle Safety	✓
Safe Driver	✓
See enclosed notice for more information about this discount.	
<b>Total Discounts</b>	<b>\$</b>

**Briana M. Coakley**

**EDUCATION:**

Juris Doctor 5/00  
Massachusetts School of Law, Andover, Massachusetts  
Admitted to practice law in New Hampshire and Massachusetts

Bachelor of Arts/Political Science Major 6/97  
University of New Hampshire, Durham, New Hampshire

**LEGAL EXPERIENCE:**

**Partner** 3/22-present  
**Coakley Law, PLLC**

I am the managing member and attorney in a boutique law firm in Portsmouth, New Hampshire offering selective legal services in the area of family law, education law, employment law and nonprofit organizations. My focus is alternative dispute resolution. I am routinely hired as a private mediator in family law matters and educational matters. I represent parties in family law matters of all types. I represent for profit and nonprofit organizations in the areas of employment law, contract negotiations and business law, as well as provide administrative law guidance. I have been recruited to teach continuing education classes in the areas my practice is focused.

**Partner** 3/07-03/22  
**Coakley & Hyde PLLC, Portsmouth, NH**

Partner in a law firm that handled all aspects of civil litigation. I represented parties in family law matters, special education matters, for profit and nonprofit organizations in the areas of employment law, contract negotiations and business law, as well as provide administrative law guidance. I, along with my law partner, managed and maintained every aspect of owning and operating a very successful law practice.

**Hearing Officer/Mediator** 7/17-present  
**New Hampshire Department of Education**

I am a contract employee for the New Hampshire Department of Education to oversee and conduct hearings and Alternative Dispute sessions as required by Federal and State statute and administrative law and procedures. I issue written orders and decisions as part of the process in addition to mediating disputes that are brought before the New Hampshire Department of Education. Throughout my duties I maintain compliance with security and confidentiality requirements in telephone and virtual communications as required by Federal and State law.

**Attorney** 3/02-3/07  
**Shaines & McEachern, P.A., Portsmouth, NH**

Employed as a trial attorney for medium sized law firm that handles all aspects of civil law with special emphasis in litigation. Responsible for overseeing all aspects of civil litigation passed on to me by the Senior partner. Areas of practice include representing non-profit organizations, business law, employment

law, contracts, tax law, workers' compensation – plaintiff, personal injury, wills and trusts, probate, family law, municipal law, tenant (commercial and residential), administrative law and ERISA litigation.

#### **PROFESSIONAL EXPERIENCE:**

**Professor of Graduate Studies  
Northeastern University**

05/11-present

I am employed by Northeastern University as a faculty lecturer for the College of Professional Studies in Non-Profit Management and Human Resource Management, for the required courses of Legal Governance Issues in Non-Profit Organizations and Human Resources Management for profit and in Non-Profit Organizations. I am responsible for creating the course schedule, content and presentation of material through a number of sources, i.e. live lecture, Blackboard, Canvas and video to provide students with knowledge and understanding of course material based on my experience and training in the industry.

**Professor of Business  
Bay Path College**

11/10-3/11

Employed by Bay Path College as a professor in the business department to teach Business Policy I and Business Policy II. These two capstone courses require that the students apply business knowledge and skill through class discussions, including online discussions, and through Capstone's simulated competition.

**Professor of Law  
Massachusetts School of Law, Andover, MA**

1/08-present

I am employed by the Massachusetts School of Law as an adjunct professor to teach law students the specialized area of New Hampshire practice. This class introduces law students interested in practicing law in New Hampshire to the procedural differences of practice in New Hampshire. I am responsible for creating a class schedule, presenting the material, and examining the students' knowledge and understanding of the course material.

#### **COMMUNITY AND PROFESSIONAL AFFILIATIONS:**

New Hampshire Conflict Resolution Association, Board Member (2016-2019)  
Children's Museum of New Hampshire, Board Member (2013-2016)  
Children's Museum of New Hampshire Legal Governance Committee and Chair (2015-2016)  
Collaborative Law Alliance of New Hampshire, Member (2010-present)  
American Inns of Court (2002-2013)  
Rotary Club of Portsmouth, New Hampshire (2001-2008)  
New Hampshire Bar Association (2002-Present)  
National Alliance for the Mentally Ill, Volunteer (2000)  
Sexual Assault Support Services, Crisis Advocate (1993-1994)  
MSL, Student Bar Association, President (1999-2000)  
MSL, Student Bar Association, Director (1998-1999)  
MSL, Student Bar Association, Representative (1997-1998)  
American Trial Lawyers Association (1998-2000)  
ATLA, Student Attorney, Regional Trial Competitions (2<sup>nd</sup> Place 1999 & 2000)  
UNH, Memorial Union Board of Governors (1993-1996)

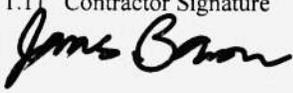
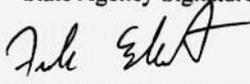
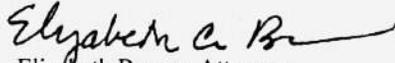
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

State Agency Name Department of Education		State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name James M. Baron, Esq., M.Ed.		Contractor Address 38 Caughey St., Waltham, MA 02451	
1.5 Contractor Phone Number (781) 209-1166	Account Unit and Class See Exhibit C	1.7 Completion Date June 30, 2025	0 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana E. Fenton, Esq.		1.10 State Agency Telephone Number (603) 271-3189	
1.11 Contractor Signature  Date: 5/23/23		1.12 Name and Title of Contractor Signatory James M. Baron, Esq., M.Ed.	
1.13 State Agency Signature  Date: 6/1/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Elizabeth Brown, Attorney On: 6/1/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials   
Date 5/23/23

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

**9. TERMINATION.**

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

**10. PROPERTY OWNERSHIP/DISCLOSURE.**

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

#### 15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

#### 19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

**20. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**21. THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

**22. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**23. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**24. FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

**25. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**26. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**EXHIBIT A  
SPECIAL PROVISIONS**

Additional Exhibits D-G

**Federal Certification 2 CFR 200.415**

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

1. A certificate of Good Standing issued by the Secretary of State is not required for individuals contracting in their own name (as individuals, not as business organizations).
2. A contractor who is contracting in his or her individual capacity does not need a Certificate of Vote/Authority, but the contractor must represent in the contract Exhibit A of the Form P-37, that he or she is a sole proprietor of the business.
  - a. I, James M. Baron, am a sole proprietorship. As such, **I am not** a corporation, partnership, or limited liability company etc.
3. James M. Baron represents that he currently has no employees, and as such, is effectively exempt from RSA 281-A. If he should hire any employees, however, he would be required to comply with Paragraph 15 of the P-37.
4. Remove the insurance requirements under Section 14.1.1 of the P-37. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

MAPFRE INSURANCE

*Contract between James M. Baron, Esq. and the New Hampshire Department of Education*

Contractor Initials **JS**  
Date **5/23/03**

**EXHIBIT B**  
**SCOPE OF SERVICES**

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Governance Unit.

In the role of **Hearing Officer**, upon assignment of a case by the Governance Unit, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
3. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
4. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
5. Conduct pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Governance Unit.
6. Explain subpoena process to parties. Issue subpoenas as necessary.
7. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
8. Make written findings of facts following the hearing.
9. Make written rulings of law following the hearing.
10. Issue timely responses to all motions/continuance requests of the parties.
11. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer.
12. Provide an electronic version in Microsoft Office Word, or as directed by the Governance Unit, of the Hearing Officer decision to the Governance Unit.
13. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Governance Unit.
14. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing, and accounting.

*Contract between James M. Baron, Esq. and the New Hampshire Department of Education*

Contractor Initials JB  
Date 5/23/23

**EXHIBIT B continued**

15. Provide updates on cases to the Governance Unit by no later than noon on Monday for the prior week.
16. Attend training sessions as scheduled by the Governance Unit.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator, Moderator or Neutral Officer), upon assignment of a case by the Governance Unit, the contractor shall:

17. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
18. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Governance Unit and detailed in the Hearing Officers' Guide to Administrative Process.
19. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
20. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
21. Ensure timely responses to all inquiries of the parties.
22. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Governance Unit.
23. If serving as Mediator, the Mediator will notify the Hearing Officer and Governance Unit of the outcome of mediation sessions in a timely manner.
24. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/moderator session/neutral conferences, bookkeeping, up-to-date billing and accounting.
25. Provide updates on cases to the Governance Unit by no later than noon on Monday of each week.
26. Attend training sessions as scheduled by the Governance Unit.

**EXHIBIT C  
METHOD OF PAYMENT**

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2025. This schedule was developed based on the median and average costs of all hearings and mediations held during a one-year time span.

<b>Mediation/Neutral Conference</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
<ul style="list-style-type: none"> <li>• Full Day (More than 3 hours) - \$300 (example 9-4)</li> <li>• Less than 3 hours - \$200 (example: 9-noon; noon - 3)</li> <li>• Second Day - \$175</li> </ul>			
<b>Prior to Pre-Hearing</b>		<b>Date</b>	
Upon acceptance of case - \$150*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$200</i>			
Sufficiency hearing - \$225			
<b>Hearing</b>		<b>Date</b>	
Pre-Hearing - \$200			
Hearing –			
<ul style="list-style-type: none"> <li>• 1<sup>st</sup> Day – More than 3 hours \$325; Less than 3 hours - \$205</li> <li>• 2<sup>nd</sup> Day - More than 3 hours \$325; Less than 3 hours - \$205</li> </ul>			
<b>Post-Hearing</b>		<b>Date</b>	
Prepare decision - \$305			
<ul style="list-style-type: none"> <li>• Hearing Decision</li> <li>• Summary Judgment</li> </ul>			
Report and Recommendation - \$250 (State Board)			
State Board – Findings of Fact/Rulings of Law - \$105 (State Board)			
<b>Miscellaneous</b>	<b>Date</b>	<b>Details</b> (mileage, time, other information necessary)	<b>Payment</b> <b>(Less \$150.00 upon acceptance)</b>
Preparation of subpoenas (Total for case) \$50			
Mileage - \$0.625/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> <li>• ½ day (four hours or less) - \$200.00</li> <li>• Full day - \$350.00</li> </ul>			Not Applicable
Evaluation meeting \$50.00			

*Contract between James M. Baron, Esq. and the New Hampshire Department of Education*

Contractor Initials **JB**  
Date **5/23/23**

**EXHIBIT C continued**

File Preparation (includes Indexes, Admin file, Pre-hearing checklists) – \$50 per case if at close of settlement; withdrawal; dismissal <i>or</i> \$100 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$60.00**			
OTHER - Describe			

Items not covered in this schedule - *From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.*

*\*If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

*\*\*Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

*\*\*\*See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 **not** \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funds to support this request are anticipated to be available in FY24 and FY25 in the accounts titled Governance, VR Field Programs–Federal, and IDEA-Special Ed–Elem/Sec, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council Approval, if needed and justified.

<u>ACCOUNT NUMBER</u>	<u>FY 24</u>	<u>FY 25</u>
06-56-56-560510-20220000-046-500464 Consultants	\$50,000.00	\$50,000.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above supported by a summary of activities/completed deliverables that have taken place in accordance with the terms of the contract, along with a detailed listing of expenses incurred. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed. A final invoice is due within 30 days of the end of this contract. Invoices and receipts shall be submitted electronically to:

Stephen W. F. Berwick, Administrator  
[Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov)

*Contract between James M. Baron, Esq. and the New Hampshire Department of Education*

Contractor Initials **JB**  
 Date **5/23/23**

## EXHIBIT D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### **Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

#### **Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

#### **Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

JD  
5/23/23

## Exhibit E

### Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

JB

5/23/23

## Exhibit F

### Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfllin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

JB

5/23/03

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

Date

JE

5/23/23

Underwritten by: The Commerce Insurance Company

**James Michael Baron**


**Policy Number:**  
**Policy Type:** Personal Automobile Policy  
**Policy Start:** 04/08/2023  
**Policy End:** 04/08/2024 (12:01am EST)

To make policy changes, please contact your agent:  
**WIC Insurance, Inc. | 100365**  
 230 Second Ave., Ste. 105, Waltham, MA 02451  
 781 890 0999

**COVERAGE SELECTIONS PAGE | RENEWAL**

Transaction effective date: 04/08/2023

Additional / Return Premium:

<b>SUMMARY OF CHANGES</b>	Q012478797
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VEHICLE INFORMATION					
Veh. No.	Year	Make and Model	VIN	Annual Mileage	Lienholder/Lease Company
1					
2					

OPERATOR AND HOUSEHOLD MEMBER INFORMATION												
Op. No.	Operator Name	Date of Birth	License Number	Lic. State	Merit Rating	CIC Merit Rating	Date First Licensed		Driver	Student	Def. Op. Y/N	TNC Op. Y/N
							Auto	Motorcycle	T-Training S-Smart B-Both	G-Good A-Away B-Both		
1	James Baron			MA								
2				MA								

ADDITIONAL VEHICLE INFORMATION CONTINUED											
Veh. No.	Principal Place of Garaging	Custom Equipment	Rating Class	Rated Driver No.	Operator Status	Motorcycle CC's	Motorcycle Value	BI/PD Sym	PIP/MP Sym	Comp Sym	Coll Sym
1											
2											

Underwritten by: The Commerce Insurance Company

DISCOUNT(S) AND CREDIT(S)				
Policy Discount(s)		Vehicle Discount(s)		
Description	Percentage/ Credit	Veh No.	Description	Percentage
Paid in Full Discount		1	Multi-Car Discount	
Account Discount		1	Annual Mileage	
Disappearing Deductible Credit (Effective 04/08/2023) *This Credit is subject to change based upon policy eligibility and/or claims activity.		2	Multi-Car Discount	
		2	Annual Mileage	

FORMS AND ENDORSEMENTS			
Name		Number	Edition Date
Disappearing Deductible Credits			
Massachusetts Mandatory Endorsement			
MA Base Policy 2016 Edition			
Privacy Notice			
Waiver of Deductible			
MAPFRE Loyalty Rewards Program			
AAA Member Package Endorsement			

ADDITIONAL INFORMATION SECTION	
Your Policy Includes AAA Loyalty Plus Pricing, Member Since	
Loyalty Years with MAPFRE:	



Underwritten by: The Commerce Insurance Company

**COVERAGES AND LIMITS OF LIABILITY**  
 This policy provides only the coverage for which a premium charge is shown.

Coverage	Vehicle 1				Vehicle 2			
	Limit	Deductible	Full Term Premium	Adjusted Premium	Limit	Deductible	Full Term Premium	Adjusted Premium
<b>Compulsory Insurance</b>								
1. Bodily Injury To Others Per Person/Accident	\$20,000/ \$40,000	Not Applicable			\$20,000/ \$40,000	Not Applicable		
2. Personal Injury Protection Per Person	\$8,000	Full Coverage			\$8,000	Full Coverage		
3. Bodily Injury Caused By An Underinsured Auto Per Person/Accident	\$50,000/ \$100,000	Not Applicable			\$50,000/ \$100,000	Not Applicable		
4. Damage To Someone Else's Property Per Accident	\$100,000	Not Applicable			\$100,000	Not Applicable		
<b>Optional Insurance</b>								
5. Optional Bodily Injury To Others Per Person/Accident	\$250,000/ \$500,000	Not Applicable			\$250,000/ \$500,000	Not Applicable		
6. Medical Payments Per Person		Not Applicable				Not Applicable		
7. Collision Loss Settlement (ACV, Stated) Waiver of Deductible	ACV	Yes			ACV	Yes		
8. Limited Collision Loss Settlement (ACV, Stated)								
9. Comprehensive Loss Settlement (ACV, Stated, Agreed) \$100 Glass Deductible	ACV				ACV			
10. Substitute Transportation Day/Maximum	15/450	Not Applicable			15/450	Not Applicable		
11. Towing And Labor Per disablement		Not Applicable				Not Applicable		
12. Bodily Injury Caused By An Underinsured Auto Per Person/Accident	\$50,000/ \$100,000	Not Applicable			\$50,000/ \$100,000	Not Applicable		
Excess Electronic Equipment								
Auto Loan Lease Coverage								
Limited Transportation Coverage								
Motorcycle Accessory Coverage								
Value Endorsement								
<b>MERIT RATING PLAN</b>	Premium Adjustment				Premium Adjustment			
<b>PREMIUM (Per Auto)</b>								

Coverage Enhancements		
Coverage	Term Premium	Adjusted Premium
<b>TOTAL POLICY PREMIUM</b>		

# JAMES M. BARON, ESQ., M.ED.

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## BAR ADMISSIONS

- Massachusetts, New Hampshire and Florida state courts.
- U.S. District Court for the Districts of Massachusetts and New Hampshire.

## EDUCATION

### **SUFFOLK UNIVERSITY LAW SCHOOL, Boston, MA**

J.D., *cum laude*, May 2007

Class Rank: Top 25%

Cumulative GPA: 3.25

Honors: Note Editor, Suffolk University Law Review, 2006-2007  
Staff Member, Suffolk University Law Review, 2005-2006  
Dean's List, 2004 – 2005, 2005 – 2006, 2006 - 2007

Publications: *When Good Intentions Go Bad: The MCAS Graduation Requirement and Special Education Children*, 40 Suffolk U. L. Rev. 123 (2006)

### **EMMANUEL COLLEGE, Boston, MA**

M. Ed., May 1990

Cumulative GPA: 4.0

Certification: Massachusetts Teacher Certification (#290927)

### **BRANDEIS UNIVERSITY, Waltham, MA**

B.A. in Economics, *cum laude*, May 1985

Cumulative GPA: 3.29

Honors: Honors in Economics

Senior Honors Thesis: "Is the Boston Stock Exchange an Efficient Market?"  
Activities: Business reporter for Brandeis radio station (WBR5)

## EXPERIENCE

### **ATTORNEY**

LAW OFFICE OF JAMES M. BARON, Waltham, MA

*Nov. 2007 - Present*

- Established solo law practice immediately after being sworn in to Massachusetts bar.
- Handle all aspects of running a solo law practice, including management of conflicts system, maintenance of standard office policies, networking, marketing, business development, technical support, managing web site, writing blog articles, staying updated on the latest local and national legal news and trends.
- Advise and represent students and parents in the area of Education Law. Advocate for students with disabilities to obtain proper accommodations and services. Analyze IEP's, attend Team meetings, negotiate settlement agreements, and draft hearing requests. Work proactively with neuropsychologists and educational advocates.
- Educate and empower parents to deal with school districts.
- Manage all aspects of litigation, including discovery, witness preparation, trying the case, and researching and writing motions and memoranda.
- Draft correspondence, memos, pleadings and motions; Draft and respond to discovery requests; Conduct and defend depositions; Research legal issues; Manage paralegal.
- Practice before the Massachusetts Bureau of Special Education Appeals (BSEA) and the New Hampshire Department of Education, Massachusetts and New Hampshire state courts, and the U.S. District Court for the District of Massachusetts.
- In addition to my private clients, I also accept court-appointed Children Requiring Assistance (CRA) and Guardian ad Litem (GAL) Education Surrogate cases.

# **JAMES M. BARON, ESQ., M.ED.**

## **PRE-SALES SYSTEMS ENGINEER**

IRON MOUNTAIN, Southborough, MA  
COMPUWARE CORPORATION, Cambridge, MA

*Dec. 1999 – Nov. 2007*  
*Jul. 1996 – Dec. 1999*

## **PROGRAMMING / SYSTEMS ANALYSIS**

JOHN HANCOCK LIFE INSURANCE CO., Boston, MA

*Jan. 1986 – Jul. 1996*

## **TRAINING**

JOHN HANCOCK LIFE INSURANCE CO., Boston, MA

*Mar. 1990 – Jan. 1992*

## **SPEAKING ENGAGEMENTS**

- “The Ins and Outs of Ethics: Staying in Business While Staying Out of Trouble,” COPAA National Conference (2022).
- “Using Technology to Handle Student Records and Gain the Edge, from Intake through Hearing,” COPAA National Conference (2017, 2019).
- “Working with Children with Special Needs” for Massachusetts MCLE. Co-developed, chaired, and presented this class, and also co-authored the class book (2015).
- “Running Your Own Special Education Law Practice,” COPAA National Conference (2014, 2015, 2022).
- “Bar Associations and Mentoring Programs,” Practicing with Professionalism CLE (now required of all new attorneys by Massachusetts Supreme Judicial Court) (2014 – 2018).
- “Special Education Law” for the Mass Law radio program on 91.3 FM, WCUW (2013).
- “Special Education Law: Children with Autism Spectrum Disorder,” at the Federation for Children with Special Needs Visions of Community Conference (2011).
- “Asperger Syndrome and Special Education Law,” for the Asperger’s Association of New England Annual Conference (2010).
- “Special Needs Estate Planning” for the Money Matters Radio Network (2010).
- “504’s, IEP’s and Brachial Plexus Injury” for the National Brachial Plexus Conference (2009).

## **BAR ASSOCIATIONS AND COMMUNITY INVOLVEMENT**

### **STARTING OUT SOLO (SOS), Waltham, MA**

- Statewide bar association for solo attorneys with no prior supervised law practice experience
- Co-founder and Board Member (2008 – 2019)
- President (2012 – 2015)
- Vice President (2008 – 2012, 2017 – 2019)

### **MASSACHUSETTS ATTORNEYS FOR STUDENT EDUCATION RIGHTS (MASERS)**

- Statewide bar association for parent-side education attorneys
- Founder and Listserv Administrator (2014 - Present)

### **COUNCIL OF PARENT ATTORNEYS AND ADVOCATES (COPAA)**

- Member (2008 – Present)

### **GREATER WALTHAM ARC, Waltham, MA**

- Board of Directors (2010 – 2017)
- Human Rights Committee (2010 – 2017)
- Corporate Member (2009)

### **WALTHAM COMMUNITY FOUNDATION, Waltham, MA**

- President (2005 – 2009)
- Board of Directors (2003 – Present)