

Illinois State Board of Education**CONTRACTUAL AGREEMENT FOR SERVICES (“Agreement”) OF A SPECIAL
EDUCATION DUE PROCESS HEARING OFFICER BY AND BETWEEN [REDACTED]
[REDACTED] (“Hearing Officer”) AND
THE ILLINOIS STATE BOARD OF EDUCATION (“ISBE”)**

Agreement Term: **Fiscal Year 2022 “Effective Date” through June 30, 2022**

“Effective Date” shall be defined as either July 1, 2021 or the date upon which this contract is fully executed by the parties, whichever date is later.

WHEREAS, ISBE has the responsibility to develop and implement a due process hearing system pursuant to the requirements of the Individuals With Disabilities Education Improvement Act of 2004, Public Law 108-446 (“IDEA 2004”), Article 14 of the Illinois School Code, 105 ILCS 5/14-1.01 *et seq.* as amended by Illinois Public Act 94-1100 (“Article 14”) and regulations that have been or will be promulgated under such federal and State statutory provisions (“Implementing Regulations”); and

WHEREAS, Hearing Officer wishes to contract with ISBE for the purpose of conducting and deciding special education due process proceedings in accordance with the requirements of IDEA 2004, Article 14 and the Implementing Regulations;

NOW, THEREFORE, in consideration of the mutual covenants herewith contained and for other good and valuable consideration, Hearing Officer and ISBE agree as follows:

A. DUTIES AND RESPONSIBILITIES OF HEARING OFFICER

1. Hearing Officer shall serve as an impartial due process hearing officer in any special education due process matter to which Hearing Officer has been appointed by ISBE. Hearing Officer acknowledges and agrees that, at any time during the Term, ISBE may, in its sole discretion, temporarily remove Hearing Officer from the appointment rotation depending on, among other things, Hearing Officer’s active caseload and the number of Hearing Officer’s outstanding cases not in compliance with applicable timelines.
2. Hearing Officer shall not assign, transfer or sub-contract any services to be performed under this Agreement.
3. The Hearing Officer shall maintain, at Hearing Officer’s expense, Internet access and an active e-mail account, include his or her e-mail address on the signature page of this Agreement, and notify ISBE’s Due Process Coordinator, as soon as practicable, of any change to such e-mail address. Hearing Officer, throughout any due process matter for which he or she is appointed, shall fully access and use the Web-based Special Education Database System.

4. Hearing Officer shall, at least annually, at the time and in a form chosen by the Agency in its sole discretion, complete ethics training and sexual harassment training pursuant to the State Officials and Employees Ethics Act, 5 ILCS ICLS 430/5 et. seq., sign forms approved by the Agency acknowledging the completion of such trainings and submit such forms to the Agency by the date determined by the Agency on an annual basis. Further, the Hearing Officer shall, at least annually, at the time and in a form chosen by the Agency in its sole discretion, complete any other state-mandated training(s), sign a form acknowledging the completion of such training if required by the Agency, and submit such form to the Agency by the date determined by the Agency on an annual basis.
5. Hearing Officer shall conduct all proceedings related to any due process matter to which he or she is appointed (“Proceedings”) in accordance with IDEA 2004, Article 14, the Implementing Regulations, and any and all other applicable laws and regulations.
6. The Hearing Officer shall, as soon as practicable but no later than five days after appointment to a matter, notify the parties that he or she is impartial and has no financial, professional or personal interest that would conflict with his or her objectivity in the Proceedings. If, at the time of appointment or any point thereafter, Hearing Officer knows or reasonably should know of an actual or potential conflict, he or she shall immediately disclose such conflict in writing to the parties and, unless the parties are legally permitted to and do agree in writing to waive such conflict, recuse himself or herself from the matter. Hearing Officer shall transmit a copy of any such waiver to ISBE’s Due Process Coordinator by e-mail (either signed in a PDF file or unsigned) and regular mail within 72 hours of receipt.
7. In any matter to which Hearing Officer is appointed, Hearing Officer shall issue a written decision within 10 calendar days following the conclusion of the hearing. The decision shall set forth the issues in dispute, findings of fact based upon the evidence and testimony presented, the conclusions of law reached, orders with which the parties must comply, the parties’ right to request a clarification of the orders issued, and the parties’ right to appeal the decision to a court of competent jurisdiction within 120 days of the transmission of the decision to the parties (or such other timeline as may be required under IDEA 2004, Article 14 or any Implementing Regulation). Hearing Officer acknowledges that the sole ground which shall permit an extension of time for the issuance of a written decision is an unforeseen and catastrophic circumstance befalling Hearing Officer or a member of Hearing Officer’s immediate family such as to render impossible the issuance of a written decision within 10 calendar days. Based on the foregoing, the Hearing Officer represents that, in the event he or she extends the timeline for issuance of written hearing decision, he or she has notified the parties in writing of the need for such extension and has provided ISBE with an exact copy of said notice within 72 hours of its issuance to the parties.
8. Hearing Officer shall meet any and all required timelines. In the event that Hearing Officer extends any such timelines by waiver of the parties or any other appropriate means, Hearing Officer shall document such extension in accordance with ISBE procedures and submit such documentation to ISBE’s Due Process Coordinator by e-mail (either signed in a PDF file or unsigned) and regular mail with delivery verification

(e.g. certified mail, return receipt requested) no later than 72 hours after granting such extension.

9. Hearing Officer shall timely document and maintain a record of all Proceedings in each matter to which he or she is appointed until such time as a final disposition (i.e., hearing decision, order of dismissal or order of summary judgment) has occurred. If a matter is withdrawn or upon final disposition of a matter, Hearing Officer shall, in a form prescribed by ISBE, prepare an index of the record, including without limitation, a listing of all evidentiary exhibits presented, briefs or other written arguments received, and motions received and rulings thereon. The Hearing Officer shall send the record and index to ISBE's Due Process Coordinator by regular mail with delivery verification (e.g. certified mail, return receipt requested) class mail no later than thirty (30) calendar days following withdrawal or final disposition. The record shall be organized in chronological order and include a certification, in a format prescribed by ISBE, signed by Hearing Officer representing that the record is complete and accurate. Any documents that are not part of the record shall be returned to the party submitting such document(s) with notice of such return included as part of the record.
10. During any 24-hour period, the Hearing Officer agrees to bill no more than 12 cumulative hours for any work done unless the Hearing Officer has obtained the prior express written approval of ISBE to bill more than 12 hours during that period. Hearing Officer agrees to maintain an itemized record of services rendered in and submitted to ISBE in a manner and format prescribed by ISBE. Hearing Officer understands and agrees that: (a) the compensation referenced in paragraph B.1 and B.2 below represents the total amount of compensation to which Hearing Officer is entitled for any of his or her undertakings in this Agreement; and (b) he or she has been provided with a copy of the current edition of ISBE's "Travel Guide Manual" and agrees to adhere to its provisions. The Travel Guide can be found at <http://www.illinois.gov/cms/Employees/travel/Pages/default.aspx>.
11. Hearing Officer agrees to submit final billing in each case no later than thirty (30) days following the withdrawal or final disposition of the case and understands that ISBE may withhold payment of the Hourly Rate (defined herein at Paragraph B.2) for a matter until such time as Hearing Officer has presented ISBE with appropriate documentation of such matter's final disposition or withdrawal (including without limitation the index, record, and documentation of any time extensions granted during the Proceedings in such matter). Additionally, Hearing Officer understands and agrees that all itemized costs and expenses incurred during the Term and not submitted to this agency by August 1st in the manner and on forms prescribed by ISBE will not be processed by ISBE and will require Hearing Officer to seek payment through the Illinois Court of Claims.
12. Hearing Officer shall maintain books and records relating to performance of the Agreement and necessary to support amounts charged to the State under the Agreement. Books and records, including information stored in databases or other computer systems, shall be maintained by the Hearing Officer for a period of three years from the later of the date of final payment under the Agreement or completion of the Services. The three-year period shall be extended for the duration of any audit in progress during the term. Books and records required to be maintained under this Section shall be

available for review or audit by representatives of ISBE, the chief procurement officer, internal auditor, and the purchasing agency, the Auditor General, and other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. The Hearing Officer shall cooperate fully with any such audit. Failure to maintain books and records required by this Paragraph shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the Agreement for which adequate books and records are not available to support the purported disbursement. Hearing Officer shall not impose a charge for audit or examination of the Hearing Officer's books and records.

13. Hearing Officer shall attend all mandatory training sessions, scheduled on a tri-annual basis, pursuant to Article 14, and agrees to attend any supplemental or remedial training which ISBE or the due process training entity (discussed in Article 14 and hereinafter "Training Entity") may prescribe from time to time. Hearing Officer agrees to utilize the legal research and other resources provided by ISBE through the Training Entity.
14. Hearing Officer may request uncompensated leave without cause for a period of up to four months, during which time ISBE will remove Hearing Officer from the appointment rotation. Any requests for uncompensated leave beyond four months will be evaluated by ISBE, in its sole discretion, on a case by case basis. In the event of Hearing Officer's inability to continue performing services under this Agreement in a timely manner due to incapacity, Hearing Officer shall give written notification of such incapacity to ISBE together with a declaration as to the likely period such incapacity may continue. Upon receiving such notification, ISBE, in its sole discretion, may transfer pending cases and, to the extent permitted by applicable law, terminate the Agreement.
15. The Hearing Officer acknowledges that Article 14 sets forth certain conditions whereby ISBE can, if appropriate and timely corrective action by Hearing Officer is not taken, terminate the Agreement. By his or her signature below, the Hearing Officer acknowledges that he or she has read and understands such conditions. In the event that ISBE receives a written complaint alleging facts which indicate that ISBE may have a basis to terminate Hearing Officer pursuant to Article 14, Hearing Officer acknowledges that he or she will cooperate in any reasonable investigation. The investigation may be conducted in accordance with complaint investigation procedures: adopted by the Due Process Screening Committee ("DPSC"), in such manner as ISBE shall determine prior to the adoption and implementation of complaint investigation procedures by the DPSC; or adopted by an entity authorized to conduct such investigations pursuant to Article 14. Upon ISBE's termination of this Agreement, Hearing Officer shall be paid only for those services provided by Hearing Officer up to the date of termination (and only insofar as Hearing Officer has submitted the necessary documentation for payment for such services).
16. Hearing Officer's performance will be assessed at least annually by ISBE or its designee in accordance with criteria and procedures that shall be developed by ISBE in consultation with the DPSC. Hearing Officer acknowledges that any such performance review may examine, among others, the following areas of performance: decision writing, understanding of relevant law and case law, case management, sufficiency of

case documentation, and compliance with procedural timelines. Hearing Officer acknowledges that, as a result of any performance review, he or she may be subject to disciplinary action, such as remediation or termination. Hearing Officer also acknowledges his or her duty and responsibility to cooperate with any training person or entity that ISBE may so designate for the purpose of professional development and improvement arising from the Hearing Officer's prior performance evaluation or evaluations. With regard to said professional development, Hearing Officer further acknowledges that failure to participate in professional development activities and demonstrate satisfactory professional development in areas identified as in need of improvement in any of Hearing Officer's prior performance evaluations shall be a criterion used in subsequent evaluations and a factor in determining whether Hearing Officer will be reappointed for subsequent years. In addition, Hearing Officer agrees to participate in any reasonable professional development activity as prescribed by the Training Entity in connection with any prior performance evaluation of Hearing Officer. Hearing Officer acknowledges that an indication of satisfactory performance in any performance review shall not be a guarantee that Hearing Officer will be granted reappointment upon completion of Hearing Officer's current term of appointment.

17. Hearing Officer acknowledges that, as a result of this Agreement, he or she may have access to confidential information subject to the confidentiality requirements of IDEA 2004, Article 14, the Illinois School Student Records Act, 105 ILCS 10/1 et seq., and the Illinois Mental Health and Developmental Disabilities Confidentiality Act, [740 ILCS 110/1 et seq.], the Family Educational Rights and Privacy Act (FERPA) [20 U.S.C. 1232g], and the Illinois School Student Records Act (ISSRA) [105 ILCS 10/1 et seq.]. Hearing Officer agrees not to use or disclose any confidential student or other information in violation of any of the foregoing statutory provisions or the implementing regulations associated therewith. Hearing Officer agrees student records received pursuant to this Agreement shall be disposed of after the purpose of the Agreement is served. Disposal means the return of the information to ISBE or destruction of the information, as directed by ISBE.

B. DUTIES AND RESPONSIBILITIES OF ISBE

1. ISBE shall compensate Hearing Officer in the form of a single, lump-sum stipend of \$500.00 ("Stipend"), paid within 30 calendar days of the date of the final execution of this contract. In the event that this Contract shall be for less than a full calendar year, said Stipend shall be payable in the full amount of \$500.00 within 30 calendar days of the execution of this Contract. The Stipend shall be utilized for the purpose of paying all reasonable expenses associated with packaging and posting of materials required to be conveyed to ISBE as described above in Section A of this Agreement, including costs incurred in conveying materials via a secure and verifiable means of delivery (e.g., United Parcel Service, Federal Express).
2. ISBE shall additionally pay Hearing Officer at a rate of \$90.00 per hour for services, including participation in required trainings, itemized in quarter hour increments or such other increment as may be determined by ISBE during the period of this Agreement ("Hourly Rate"). ISBE further agrees to reimburse Hearing Officer his or her ordinary and reasonable travel expenses associated with the Hearing Officer's

discharge of his or her responsibilities and duties, provided that such expenses have been properly itemized and for which appropriate documentation has been provided in accordance with the current edition of ISBE "Travel Guide Manual." Hearing Officer will not be reimbursed, under any circumstances, for expenses paid by Hearing Officer to another party for the provision of secretarial services or other clerical support to Hearing Officer.

3. ISBE shall have no obligation to pay any billings on any case in which Hearing Officer has not completed all duties and responsibilities described above, including transmission of the administrative record of the case to ISBE as set forth in Paragraph A.9, except as otherwise prescribed in writing by ISBE.
4. The obligation of ISBE to pay the Stipend and Hourly Rate and reimburse Hearing Officer for itemized costs is contingent upon the continuing availability of funds appropriated by the Illinois General Assembly and expendable for purposes consistent with this Agreement. This Agreement is contingent upon and subject to the availability of sufficient funds. ISBE may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for this Agreement have not been appropriated or otherwise made available to ISBE by the State or the Federal funding source, (ii) the Governor or ISBE reserves funds, or (iii) the Governor or ISBE determines that funds will not or may not be available for payment. ISBE shall provide notice, in writing, to Hearing Officer of any such funding failure and its election to terminate or suspend this Agreement as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice unless otherwise indicated. The State may terminate or suspend this contract without advance notice for the following reasons: (a) This contract may be terminated, in whole or in part, by the State without advance notice pursuant to a funding failure this paragraph; and (b) The State may suspend this contract, in whole or in part, pursuant to a funding failure under this paragraph.
5. ISBE shall, either directly or through the Training Entity, provide Hearing Officer with access to legal research resources and any other professional development which either ISBE or the Training Entity deems appropriate. Hearing Officer shall not, without prior written authorization of ISBE, be reimbursed for fees and other costs of legal or training resources.
6. ISBE agrees that it shall, either directly or through the Training Entity, provide Hearing Officer with a written copy of his or her annual performance review (as described above, paragraph A.16) by no later than May 1st. ISBE agrees to afford Hearing Officer no less than 14 days from receipt of the annual performance review or any other performance review to submit to ISBE a written response to the contents thereof.

C. GENERAL PROVISIONS

1. The terms set forth in this Agreement constitute the entire agreement of the parties. No modification or amendment of this Agreement shall be permitted except by the mutual written agreement of the parties.

2. Hearing Officer acknowledges and agrees that he or she is performing services under this Agreement solely as an independent contractor and that Hearing Officer will not be considered an ISBE employee for any purpose. This Agreement shall not create an express or implied right or expectation that an Agreement shall be extended to Hearing Officer in future years.
3. The terms of this Agreement shall be interpreted and construed in accordance with the Laws of Illinois. In the event an action for enforcement of the terms of this Agreement shall become necessary, the parties agree that such action must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1.
4. Hearing Officer agrees to comply with the provisions of the Illinois Procurement Code prohibiting conflicts of interest (30 ILCS 500/50-1-75) and all of the terms, conditions and provisions of those Sections apply to this Agreement the same as though they were incorporated and included herein. Hearing Officer represents and warrants that all of the certifications and assurances set forth on Exhibit A attached hereto are and shall remain true and correct. Exhibit A is hereby incorporated into this Agreement by this reference and expressly made a part of this Agreement.
5. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.
6. Stevens Amendment. The Hearing Officer will be subject to the provisions of Section 511 of P.L. 101-166 (the "Stevens Amendment") due to the use of federal funds for this program. All announcements and other materials publicizing this program must include statements as to the amount and proportion of federal funding involved.
7. Federal Suspension and Debarment Contract Certification. Hearing Officer certifies that during the last five years, no order, judgment or decree of any federal authority has been issued barring, suspending, or otherwise limiting its right to contract with any governmental entity, including school districts, or to engage in any business practice or activity.
8. Severability. In case any provision in this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected.
9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile or electronic signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[Signature page to follow]

ACKNOWLEDGED AND AGREED AS SET FORTH BELOW:

HEARING OFFICER:

**ILLINOIS STATE BOARD OF
EDUCATION:**

Signature: _____

Signature: _____

Date: _____

State Superintendent of
Education by _____,
Financial Officer

Name _____

Date: _____

Mailing Address:

_____, Legal Officer

Telephone: (773)771-7033

By: _____

Projects Administrator

FAX No.

Email Address: _____

School District(s) of Residence _____

EXHIBIT A
CERTIFICATIONS AND ASSURANCES