

HESAA

Outside Counsel Guidelines

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I. INTRODUCTION

At times, the Higher Education Student Assistance Authority (“HESAA” or “Authority”) will retain outside counsel to represent the Authority, due to a variety of reasons, including the existence of a conflict of interest with the Attorney General’s office, the need for specialized legal expertise, to represent the HESAA in matters venued outside New Jersey, and to handle internal workload overflow. In addition, HESAA retains counsel for various transactional and advice matters.

HESAA is committed to retaining the highest quality legal services in the most cost-effective manner. Outside counsel is expected to represent HESAA with integrity, professionalism, and a sense of urgency in resolving legal problems. While HESAA requires outside counsel to provide legal services of the highest quality, outside counsel is also expected to make all efforts to deliver those services efficiently and cost effectively.

HESAA has issued these Outside Counsel Guidelines (“Guidelines”) in order to standardize processes and procedures in connection with its legal matters. These Guidelines set forth HESAA’s expectations and define an effective working relationship with outside counsel, in order to streamline processes and improve cost savings. Outside counsel should promptly contact the designated attorney HESAA with any questions relating to the application of these Guidelines.

These Guidelines are effective for all work performed beginning January 1, 2015, supersede previously issued guidelines and, unless exceptions are approved in writing, constitute the terms under which outside counsel is engaged.

All attorneys, professional staff and third party vendors who work on behalf of the Authority must be familiar with and adhere to these Guidelines. However, nothing in these Guidelines is in any way intended to interfere with outside counsel’s professional judgment or duties as an advocate representing the interests of the Authority. HESAA reserves the right to amend these Guidelines at any time, providing written notification to outside counsel within thirty (30) days of any substantive changes becoming effective.

II. RETENTION

HESAA will retain outside counsel through a written retention letter that will be mailed to outside counsel.

Outside counsel must properly execute the original of the retention letter. Outside counsel must also complete and execute whatever additional forms the retention letter may require, and must provide whatever additional documentation or information the retention letter and the attachments thereto request. Counsel must return the original, paper version of the executed retention letter, and paper versions of the executed forms, together with all other required information and documents, to HESAA.

III. CONFLICTS OF INTEREST

A. Initial Conflicts Check

Prior to engagement, outside counsel shall perform a thorough check for actual or potential conflicts of interest, as defined by the applicable rules of professional conduct, which may arise from outside

counsel's representation of the Authority. Outside counsel must use best efforts to identify and discuss with HESAA any potential conflicts of a philosophic or policy-driven basis (i.e., positional conflicts) that may compromise a position taken by HESAA (e.g., if the firm is presently advocating, or intends to advocate a position adverse to the position of the Authority). Any conflict must be discussed with HESAA as soon as it becomes known. HESAA reserves the right to make an independent determination whether outside counsel has an actual or potential conflict of interest as discussed below.

The acceptance of an engagement on a matter by outside counsel without written disclosure of any conflicts constitutes a representation by outside counsel that a conflict check has been conducted and that there are no conflicts.

B. State Agency Conflicts

HESAA has a duty to protect the public interest. As part of this responsibility HESAA is chiefly represented by the Division of Law. The Division of Law sets policies to ensure that the legal system is maintained in a manner that safeguards the public's confidence in the integrity and impartiality of its administration. For this reason, the Division of Law prohibits outside counsel from representing private parties before the client agencies outside counsel represents and/or agency representatives of the client agencies, even in connection with non-adversarial proceedings. For example, outside counsel is prohibited from representing a private party before one of its client agencies in connection with applications for government approvals, or in quasi-judicial and/or quasi-legislative proceedings before client agencies.

In addition, outside counsel cannot represent private parties with interests adverse to HESAA in matters in which the HESAA is involved as a party. Outside counsel cannot represent HESAA in matters involving private parties, if the firm concurrently represents those private parties in other matters. Furthermore, outside counsel cannot take an adversarial position against HESAA on behalf of any private clients. HESAA cannot consent to any conflict of interest under New Jersey law.

Outside counsel is precluded from undertaking the representation of another client if the representation presents a substantial risk that outside counsel's responsibilities to HESAA would limit its ability to provide independent advice or diligent and competent representation to either HESAA or the client.

In accordance with the disclosure obligations set forth above, outside counsel must promptly and fully disclose to HESAA any potential conflict of interest. HESAA, after consultation with outside counsel, shall have the sole discretion to determine whether an impermissible State agency conflict exists, or whether other circumstances exist that would undermine the public's confidence in the legal system.

C. Continuing Obligation

The obligation to disclose conflicts continues throughout the course of the representation. Outside counsel must review conflicts of interest on an ongoing basis as new matters are opened. Any new attorney/client relationships that potentially create a conflict shall be reported to the HESAA immediately.

IV. RESPONSIBILITIES OF HESAA

HESAA shall designate a specific employee (the “Designated Employee”) to supervise outside counsel. The Designated Employee has the ultimate responsibility for the matter, including financial and strategic decisions. Only the Designated Employee has authority to direct outside counsel in the handling of the matter. Outside counsel shall not initiate contact with any other HESAA employee unless specifically authorized by the Designated Employee. If another HESAA employee asks outside counsel to proceed in a certain fashion or to perform certain activities with respect to a specific legal matter, outside counsel must report the request to the Designated Employee and obtain direction prior to proceeding.

The Designated Employee should provide clear, specific instructions; communicate the Authority’s objectives; closely monitor the management plan and budget; follow the progress of the matter; keep outside counsel informed of important developments; and act as liaison between outside counsel and the Authority.

V. OUTSIDE COUNSEL RESPONSIBILITIES

A. Identification of Objectives/Relationship Attorney

The Authority should clearly define the objectives to be achieved, and outside counsel should have a clear understanding of its role in achieving those objectives. Outside counsel is expected to offer clear recommendations for all major decisions related to a matter. The Designated Employee will partner with outside counsel to ensure that outside counsel has access to all relevant business information and contacts needed to form any such recommendation. Outside counsel must consult with the Designated Employee before acting on any major decision.

Outside counsel shall designate a relationship attorney to be the principal contact for HESAA (the “Relationship Attorney”).

B. Exceptions to Guidelines

It is outside counsel’s responsibility to discuss with the Designated Employee all questions concerning the application of these Guidelines before proceeding on a course of action not specifically authorized by the Guidelines. If an exception to the Guidelines is deemed necessary by outside counsel, a written request must be submitted and written approval must be obtained from the Designated Employee. HESAA will not reimburse outside counsel for any fees or expenses incurred, which are not authorized by these Guidelines, unless an exception is approved in writing by the Designated Employee.

C. Communication

In addition to performing assigned legal work in a competent and timely manner and making informed, ethical decisions on behalf of the Authority, outside counsel shall keep the Designated Employee informed of all material developments. Outside counsel must provide regular, timely, and effective communication to the Designated Employee.

D. Secondary Law Firms

During the course of a matter, if it becomes necessary to retain a secondary law firm and/or local counsel, outside counsel will consult with the Designated Employee, and provide recommendations for hiring a firm. Once retention has been approved, the secondary firm should be managed by, and invoices passed through outside counsel.

E. Ethical Standard

HESAA conducts itself in accordance with the highest ethical standards and expects the same of its outside counsel. Outside counsel should advise the Designated Employee of the Authority's responsibilities under applicable laws and regulations and any legal risks in a proposed course of action. If outside counsel believes that a HESAA employee has or will engage in illegal or unethical activity as a representative or agent of the Authority, the Relationship Attorney must immediately advise the HESAA. No HESAA employee has authority to instruct outside counsel to act in an unethical manner in connection with any matter.

HESAA will terminate its relationship with any outside counsel who fails to adhere to the foregoing ethical standards in connection with outside counsel's representation of the Authority.

F. Malpractice Insurance

Outside counsel representing HESAA is expected to maintain legal malpractice insurance coverage that is reasonable and prudent in relation to the types and sizes of matters handled. Outside counsel shall, upon request, promptly provide the Designated Employee with copies of any applicable policies required under this section. Each policy provided must be certified by the agent or underwriter to be a true copy. If outside counsel does not have coverage or if coverage is cancelled and not immediately replaced with comparable coverage, outside counsel must immediately report this to the Designated Employee.

G. File Retention

For Litigated Matters: Outside counsel shall retain pleadings, correspondence, discovery materials, deposition transcripts and similar documents and work product for a period of no less than seven (7) years from the date the matter is concluded or for the time period specified by rule or law in the jurisdiction in which the matter was pending, whichever is longer. Outside counsel shall notify HESAA in writing no less than sixty (60) days prior to destroying any file. Along with the written notification, outside counsel shall submit an inventory of any original HESAA documents contained in the file to be destroyed and a certification that any electronic version of the file will also be destroyed or deleted.

VI. CONFIDENTIALITY

In the course of representing HESAA, outside counsel frequently gains access to nonpublic and confidential information. The Authority requires outside counsel to maintain the confidentiality of such information both during and after the course of the firm's representation of HESAA. Outside counsel must have in place appropriate procedures to ensure the protection of all such information. Outside counsel must follow all statutory, regulatory, and ethical provisions relating to privacy, confidentiality and nondisclosure of all privileged, proprietary and confidential information. Outside counsel must take

appropriate measures to ensure that all legal and non-legal personnel are familiar with this requirement and are effectively supervised in this regard.

Outside counsel must consult with the Designated Employee before disseminating any potentially sensitive information acquired from HESAA or developed or learned while representing HESAA. In addition, third party vendors engaged by outside counsel that acquire or have access to confidential or proprietary material of HESAA (including work product) should be requested to sign the confidentiality agreement attached as Appendix A. It is the responsibility of outside counsel to obtain a signed confidentiality agreement from third-party vendors and to retain it. Under no circumstances will the Authority agree to designate a settlement agreement confidential.

VII. CASE MANAGEMENT, REPORTING AND BUDGETING

A. Management Plan, Budget and Status Reports

1. Litigation and Advice Matters

Both during the retention process and at the outset of each engagement, outside counsel should discuss with the Designated Employee HESAA's goals and objectives, and possible strategies for achieving the goals and objectives identified. Within thirty (30) days of assignment of a matter, outside counsel shall submit a management plan and budget for each new matter or project, unless directed otherwise in writing by the Designated Employee (as discussed below, budgets are not required in contingency fee matters). The management plan and budget are tools for both outside counsel and the Designated Employee to assist in monitoring legal expenses and to facilitate communication concerning the identification and achievement of the objectives of the engagement.

The management plan for litigation matters shall include an analysis of: (1) likely costs of the litigation to HESAA; (2) possible outcomes and the projected likelihood of each outcome; (3) probable and ultimate verdict range; (4) settlement value and recommendations; and (5) proposed strategy and tactics for termination or resolution. The management plan for advice matters shall include: (1) a listing of the issues to be addressed; and (2) the time frame for each issue.

The budget should reflect major assumptions, conform to the established management plan, identify specific work phases and provide an estimate of the cost of each phase, identifying projected fees and disbursements. At a minimum, for litigated matters, each budget must provide an estimate of fees and costs for each of the following phases and/or tasks: initial pleadings; motion to dismiss; interviews of witnesses, including client employees and representatives; written discovery requests and responses; document review and analysis; preparation for depositions; take and defend depositions; identify and retain experts; obtain expert reports (including communications with experts and review of expert reports); analyze adversary's expert reports (including consultation with own expert); prepare dispositive motions; prepare non-dispositive motions; trial preparation (broken down by motions in limine, trial briefs, exhibit preparation, preparation of witness outlines, witness preparation, jury charges, verdict sheets, etc.); trial; and post-trial proceedings.

The State reserves the right to revise any budget prepared by outside counsel. Outside counsel and HESAA shall work collaboratively on any revisions to the budget; however, HESAA has final authority to approve any budget. Outside counsel shall notify the Designated Employee immediately of all developments that may cause a budget to vary significantly. The budget shall not be subject to

adjustment absent significant unforeseen developments, and then only as approved in writing by the Designated Employee. HESAA will not reimburse outside counsel for any amount in excess of the approved budget, unless an updated budget has been submitted by outside counsel and approved by the Designated Employee in writing.

Subsequent to the submission of the management plan and budget, outside counsel shall submit quarterly status reports, unless intervening events necessitate more frequent reports or as otherwise required by the Designated Employee. For litigated matters, the status reports must include the current posture of the case, the status of discovery, assessment of liability and damages, settlement assessment and recommendations, and any other material issues requiring HESAA's attention. For advice matters, the status reports must include the status of providing the advice, whether additional issues have arisen which need to be addressed, and adjustments, if any, to the time frames for addressing such issues. HESAA will not process any invoices unless outside counsel is in full compliance with this section.

2. Contingency Fee Litigation

Outside Counsel handling litigation on a contingency basis has the responsibility to handle the case in the most efficient and cost effective manner possible. Outside counsel in contingency fee matters are not required to submit budgets. However, in order for HESAA to properly monitor costs, outside counsel shall submit quarterly status reports, unless intervening events necessitate more frequent reports or as otherwise required by the Designated Employee. The status reports must include the procedural posture of the case, the status of discovery, assessment of liability and damages, settlement assessment and recommendations, and any other material issues requiring HESAA's attention. Additionally, outside counsel must submit reports detailing the individual timekeeper time spent and tasks performed, and specific disbursements made. These reports will be submitted for informational purposes only. The reports are not invoices, but are required by HESAA, so the Designated Employee can review the actual time spent on tasks and the costs incurred.

Before incurring any substantial costs or retaining any experts, outside counsel shall seek the approval of HESAA through the Designated Employee. Outside counsel shall confer with the Designated Employee prior to filing any substantive pleadings on behalf of HESAA. Unless otherwise agreed to in writing, outside counsel in contingency fee matters shall be bound by the provisions of these Guidelines.

B. Pleadings, Motions and Other Documents

Decisions to prepare and file substantive pleadings on behalf of HESAA shall be made jointly by outside counsel and the Designated Employee. Any decision to prepare pleadings not addressed in the management plan and budget requires written approval of the Designated Employee. Unless directed otherwise, outside counsel shall forward a draft copy of all pleadings to the Designated Employee for review no less than three (3) business days before the filing deadline where practical. Only in exceptional circumstances should the lead time be less than twenty-four (24) hours.

Any affidavits prepared by outside counsel for signature by a HESAA employee or representative must be reviewed and authorized in advance by the Designated Employee. Outside counsel is encouraged to use certifications or declarations in lieu of affidavits in jurisdictions where they are allowed.

Unless otherwise instructed, outside counsel shall forward copies of all substantive pleadings and correspondence to the Designated Employee.

C. Discovery

Outside counsel will partner with the Designated Employee on items relating to document collection, review, and production, and other discovery-related matters. HESAA is committed to identifying and working toward a process that mitigates risk and is cost-effective, while meeting all discovery obligations imposed by applicable rules, practices, and orders.

VIII. SETTLEMENT & ALTERNATIVE DISPUTE RESOLUTION

HESAA encourages early settlement discussions where appropriate. Outside counsel should promptly bring settlement opportunities to the Designated Employee's attention. The Designated Employee must authorize any settlement communication or the use of Alternative Dispute Resolution ("ADR"). All recommendations to settle a case and offers of settlement from opposing counsel shall be promptly communicated to the Designated Employee.

HESAA encourages use of ADR techniques in appropriate circumstances. Outside counsel should proactively identify and bring to the attention of the Designated Employee all opportunities to utilize ADR.

IX. STAFFING AND BILLING POLICY

A. Staffing of Matters

Throughout the engagement, the Designated Employee and outside counsel should confer and agree on which attorney(s) within the firm will have primary responsibility for the matter and on the number, names and billing rates of the partners, associates and paralegals who will be assigned to the matter. Any request to change staffing must be discussed with the Designated Employee and approved in writing in advance by the Designated Employee.

While it is important to have an adequate number of personnel at the right levels involved, HESAA expects outside counsel to exercise care to avoid overstaffing. Unless otherwise approved in writing in advance, HESAA will not pay for: (1) more than one attorney to attend a trial, motion hearing, conference, meeting or deposition; (2) internal firm conferences and internal written (including electronic) communication; or (3) the inclusion of associates at meetings or hearings for the purpose of "associate development." In the event the Designated Employee approves in writing internal firm conferences, HESAA will only reimburse the time of the attorney with the highest billing rate for all such conferences.

HESAA expects staffing to be efficient. Outside counsel is expected to utilize the services of partners, associates, and paralegals to meet the Authority's expectations in the highest quality and most cost-effective manner. HESAA must not be billed for excessive time spent on tasks or excessive fees resulting from tasks performed by over-qualified or under-qualified professionals. If the Designated Employee determines, after consultation with outside counsel, that staffing is inappropriate for particular tasks performed, the hourly rate charged may be reduced to a rate consistent with that of a lower level professional in the Authority's sole discretion. Similarly, if the Designated Employee determines that excessive time was spent on a particular task, the time billed may be reduced within the Designated Employee's sole discretion. Additionally, HESAA does not expect to see excessive time spent by a single

timekeeper and will not pay for more than ten (10) hours of time by a single timekeeper in a single day unless otherwise approved in advance in writing. Routine file maintenance and other administrative functions are outside counsel's responsibility and should not be billed to the Authority. Please review the Fees section below for a list of clerical and administrative tasks that should not be billed, and will not be paid, no matter who performs the work.

HESAA believes that it is most efficient for a single attorney or group of attorneys to handle a matter from beginning to end. The Authority expects outside counsel to strive for continuity in staffing. The Authority will not pay for downtime or learning time that may result from staffing changes. In addition, HESAA will not reimburse outside counsel for any routine training or supervisory time, including time spent at seminars, unless specifically approved in writing in advance and included as part of the budget. HESAA will not ordinarily pay for summer associate time unless such time has been identified as part of the approved staffing plan for appropriate work such as approved research or drafting projects. The Authority will not reimburse for time spent by temporary or contract attorneys unless approved by HESAA in advance in writing. HESAA does not expect to be billed and will not pay for time submitted by librarians; secretaries; billing, filing, docketing, or document clerks; internal messengers/couriers; temporary or clerical support staff; word processors; and IT professionals.

In those cases being handled on a contingency fee basis, the above requirements should serve as guidelines in determining outside counsel's lodestar. Similarly, outside counsel shall whenever possible comply with the guidelines concerning fees, administrative tasks, disbursements and costs and travel as provided in this document, notwithstanding the fact that outside counsel may not be submitting monthly invoices for payment to HESAA.

B. Rates

HESAA will pay for actual services rendered at rates established in Requests for Qualifications or otherwise agreed to in advance. Hourly rates will remain fixed for the duration of the representation on a particular matter unless otherwise agreed to in writing.

Billings submitted at a rate that exceeds the approved rate for a particular timekeeper or timekeeper level will be reduced to the approved rate. Billing rate increases should not be submitted unless previously discussed and agreed to in writing.

C. Alternative Fee Arrangements (AFAs)

For litigated and advice matters and particular transactional matters, HESAA will consider alternatives to traditional hourly billing, including fixed-fee arrangements, reduced hourly rates with incentive bonuses, value billing, negotiated discounts and blended rates.

D. Invoices

For litigated, advice, and non-bond transactional matters, outside counsel shall submit monthly invoices within thirty days of the conclusion of the billing period. All charges must reflect the work performed within the billing period or a reasonable time before the billing period. Absent good cause, HESAA will not pay for services or expenses incurred more than 90 days prior to the date the invoice is submitted.

Absent a specific agreement for an alternative fee arrangement, outside counsel fees shall be computed by applying the negotiated hourly rate to the time for the services expended. Hours shown must accurately reflect the time spent on the described activity and must either be the exact amount of time or the exact time rounded up or down, as the case may be, to the nearest one-tenth of an hour. Block billing -- grouping multiple activities under a single time charge --will not be accepted, and HESAA will not pay for any time recorded in a block fashion.

The invoices shall identify the matter name, and contain a detailed statement of the time spent by each timekeeper on each activity, including a statement of the date each service was rendered, type of activity, subject matter, and all persons involved. Narrative descriptions of work performed that lack sufficient detail will be rejected. HESAA does not negotiate prompt pay discounts, and will not be responsible for late fees or other administrative charges.

Every bill from outside counsel is deemed a certification by the firm and billing partner that the legal services and disbursements reflected on the bill are reasonable for the legal matter involved and necessary for the proper provision of legal services. Attorney and paralegal time and disbursements that are not necessary for the cost-effective handling of the legal matter should be deleted and will not be reimbursed.

HESAA reserves the right to audit all fees and disbursements submitted by outside counsel, and the corresponding legal file. HESAA or the Division of Law may perform this audit.

HESAA will promptly terminate the services of any outside counsel whose billing practices raise questions about the outside counsel's integrity, honesty or compliance with the applicable rules of professional conduct or these Guidelines.

E. Invoice Format

Each invoice will include the following minimum requirements:

- Unique invoice number
- Invoice date
- Matter name
- HESAA's matter number
- Outside counsel's matter number
- Date(s) services were performed
- Timekeeper name or ID
- Timekeeper title or level
- A narrative description of the service provided or task performed for each specific task. 'Block billed' descriptions are prohibited. The description should clearly state the nature of the task performed sufficient to allow HESAA to determine why it was necessary. Incomplete or vague charge descriptions are unacceptable. Examples of incomplete or vague charges include, but are not limited to: 'as analysis', 'conference', 'attention to matter'; 'worked on discovery', 'work on file', 'prepare for meeting', 'miscellaneous', 'other', etc.
- Time entry to the nearest tenth (.10) of an hour
- Timekeeper rate
- Charge total
- Detail of reimbursable expenses and disbursements at actual cost

The detailed billing report from your computerized billing system will provide this information. If your firm provides services on more than one matter during a billing period, a separate invoice for each matter is required.

F. Fees

HESAA will not reimburse outside counsel for basic support services, which HESAA deems to be part of outside counsel's overhead and built into its rate structure. For example, HESAA will not pay for tasks and services by secretaries, word processors, proofreaders, managing clerks, information system technicians, librarians, computer operators, internal messengers and the like, including any fees or expenses related to overtime, wages, meals, and transportation. Time spent preparing, discussing or supporting outside counsel's invoices will not be reimbursed, nor will HESAA pay for time spent preparing retainer letters, written budgets, management plans, status reports, or any other reporting tool unless otherwise agreed to in writing in advance. HESAA will not pay for clerical or administrative tasks, considered overhead included in the outside counsel billing rates, regardless of the personnel performing the task. These non-reimbursable tasks include but are not limited to: photocopying, printing, binding or scanning; Bates stamping, indexing, collating, coding of documents; filing (including indexing pleadings, opening or closing files, updating or organizing files); preparing transmittal letters or proofs of service; mailing, faxing or emailing; processing of mail or faxes; word processing; proofreading; maintenance of a calendar or tickler system, case tracking; scheduling appointments, events, depositions, conferences, deliveries or travel; data entry, loading or conversion; database administration and maintenance; review and/or processing of vendor, expert or local counsel billing statements; interaction with vendors; investigating potential conflicts; library usage or library staff time, filing, serving or hand-delivering documents; and other general clerical and ministerial functions.

G. Legal Research

Outside counsel is expected to be familiar with the basic substantive law at issue in the matter for which the firm was retained, and HESAA should not be charged for this type of research. HESAA also expects to benefit from previously prepared briefs and memoranda, and when such briefs or memoranda exist, will pay only for actual time spent updating or tailoring the same to its particular needs. All other anticipated legal research should be addressed in the budget. Legal research projects necessary in a particular litigation assignment must be approved in advance in writing by the Designated Employee before the research is commenced. If legal research benefits other clients, only the proportionate share of the cost should be billed to HESAA. HESAA will pay only for the actual time spent by outside counsel or other approved timekeeper conducting the research. Fees charged by electronic or other research services, including library fees, Westlaw, Lexis, or other online services are considered general overhead and are not reimbursable.

H. Disbursements and Costs

1. Generally

HESAA will reimburse outside counsel for reasonable, documented and itemized out-of-pocket disbursements and costs incurred on behalf of HESAA, with the exceptions and limitations set forth in these Guidelines. Outside counsel's invoices to HESAA should reflect the actual cost and should not include any markup. All disbursements must be fully itemized with a description sufficient for review,

identifying the number of units, price per unit and total cost. HESAA may refuse to pay for disbursements billed as 'miscellaneous', billed in a group (e.g., Travel Expenses - \$4,000.00) or disbursements without description.

HESAA will not reimburse outside counsel for basic overhead expenses considered part of outside counsel's cost of doing business. For example, the State will not pay for office supplies, rent/utilities, internet service fees, cellular/blackberry or similar device charges, firm conference room charges, temporary office space, equipment rental, storage charges, printing or laser printing, case management or litigation software or systems, computer hardware or software, IT charges including database creation and/or maintenance, subscriptions, books, periodicals or publications, professional association fees, attendance at seminars, CLE programs or conferences, group outings, client entertainment, or interest on outstanding invoices.

2. Court Reporter Expenses

HESAA will reimburse outside counsel for actual costs incurred for court reporters and transcripts. Outside counsel should obtain the lowest possible charge for court reporting fees, including any possible volume discounts. HESAA will pay for only one copy (electronic and hard) of a transcript.

Transcription expenses must identify the court reporter and the services provided (i.e., number of transcripts or pages, hard copies or tapes, etc.).

3. Court Filing Fees

The State is exempt from paying any filing fees in the Superior Court of New Jersey (including the trial court level and Appellate Division) and the Supreme Court of New Jersey. Consequently, any such fees paid by outside counsel will not be reimbursed. HESAA will reimburse the actual cost of any approved court filings in any jurisdiction where the HESAA is not exempt from paying applicable filing fees.

4. Express Mail & Couriers

Express mail and courier fees are considered general overhead and are not reimbursable.

5. Photocopying

HESAA will reimburse photocopying charges not exceeding \$0.08 per page for black and white, and \$0.80 for color. Oversized and custom copying projects should be handled using the most economical option. If the nature of a copying project makes an outside copying service more economical and confidentiality is maintained through the execution of the confidentiality agreement attached as Appendix A, HESAA expects outside counsel to make those arrangements.

6. Postage

Postage expenses are considered general overhead and are not reimbursable.

7. Telephone and Facsimile Transmissions

Telephone charges (including conference call charges) and facsimile transmissions, local and long distance, are considered general overhead and are not reimbursable. Electronic transmission of documents (scanning and emailing) is the preferred method.

8. Third Party Services

The written approval of the Designated Employee must be obtained prior to retaining any third party service providers, excepting legal process servers and court reporters.

Outside counsel has the responsibility to ensure that there are no conflicts between any third party and HESAA. In addition, all third-party vendors must execute the confidentiality agreement attached as Appendix A. The fee and disbursement policies as outlined in these Guidelines shall be made available to, and followed by third parties. It is outside counsel's responsibility to confirm that all third party billings are in compliance with these Guidelines.

Invoices from third party vendors should be paid directly by outside counsel, incorporated into outside counsel's invoice to HESAA and should include the appropriate detail. Copies of third party invoices may be requested by HESAA and should be retained in accordance with Internal Revenue Service ("IRS") guidelines. There may be times when it would be more appropriate for HESAA to pay a third party vendor directly. If so, and after consultation with the Designated Employee, the invoice should be sent to HESAA for processing.

I. Travel

1. Alternatives to Travel Encouraged

Alternatives to travel such as conference calls or videoconference are strongly encouraged and should be used by outside counsel whenever practicable. All travel time must be clearly identified on the invoice in a separate time entry.

2. Air & Rail Travel

All air and rail travel must be first approved by the Designated Employee in writing and should be anticipated by outside counsel and taken into consideration in the preparation of the budget. Unless an exception is specifically approved in advance, HESAA will not reimburse airfares or rail fares that exceed the standard coach fare. It is expected that outside counsel will take advantage of any available discounts. HESAA expects that travel time on its matters will be used as productively as possible and legitimate charges billed to HESAA at the full hourly rate, but only if the timekeeper in question actually worked only on HESAA matters while traveling and a description of the work is provided. Otherwise, non-productive travel time shall be billed at a rate not exceeding 50% of outside counsel's regular rate, unless a different rate has been previously set by written agreement. If the travel involves another client, HESAA expects to be billed only for its proportionate share of both time and related expenses.

3. Automobile Travel

Automobile travel shall be billed at a rate not exceeding 50% of outside counsel's regular rate, unless a different rate has been previously set by written agreement. HESAA will reimburse outside counsel for automobile travel expenses (necessitated by HESAA business) at a rate not exceeding the prevailing IRS-

allowed mileage rate for business travel (unless a lesser rate is negotiated). Local automobile travel (less than 30 miles one way from home or office) will not be reimbursed by HESAA. HESAA will reimburse the actual costs of taxicab, train or bus travel necessitated by HESAA business and not part of outside counsel's commuting cost. If a rental car is the most economical option, HESAA will reimburse up to intermediate/mid-size class.

4. Meals

HESAA will not reimburse outside counsel for meals unless a particular meal is necessitated by travel for HESAA business, is reasonable in cost, and is approved in writing. Reimbursable meals must be substantiated by a receipt reflecting the date, location, name of the establishment, names of the persons present and nature of the HESAA business necessitating the meal. Under no circumstances will HESAA reimburse for alcoholic beverages.

J. Expense Reimbursement

To ensure compliance with HESAA's reimbursement policies, all firms shall require itemization of out-of-pocket expenses such as airline tickets, meals and hotel bills, including original receipts before making reimbursement to any attorney, employee or third party. Travel and meal expenses and receipts may be audited and shall be retained by outside counsel in accordance with applicable IRS guidelines. Unless requested to do so by HESAA, outside counsel should not forward copies of travel and meal expense receipts to HESAA with the firm's invoice.

Personal travel expenses will not be reimbursed. These include, but are not limited to, salon expenses, in-room or in-flight movies or entertainment, excess baggage expenses, travel agency expenses, shoe shines, toiletries, dry cleaning or laundry, and luggage.

X. MEDIA

Outside counsel shall not make any statements to the media on behalf of HESAA or relating to HESAA matters. Outside counsel may be asked on occasion to assist in the development of media responses. All media inquiries must be immediately reported to the Designated Employee.

HESAA does not permit outside counsel to advertise or promote their relationship with HESAA, other than to list HESAA as a representative client in the course of marketing efforts.

XI. GRATUITIES

State officers and employees are prohibited from accepting any gift, favor, service or other thing of value related in any way to the State official's public duties. In addition, Executive Order No. 189 (Kean) prohibits a vendor to the State from offering a gift or other thing of value to a State officer or employee or special State officer in an agency with which the vendor transacts business or offers to transact business. This Executive Order also prohibits any State employee from soliciting a gift or thing of value from a State vendor.

**ACCEPTANCE OF THE HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY'S
OUTSIDE COUNSEL GUIDELINES**

I have reviewed the Higher Education Student Assistance Authority's Outside Counsel Guidelines and acknowledge acceptance of the terms. I am authorized to sign on behalf of my firm. A copy of these Guidelines will be provided to all staff including our billing department to ensure compliance. I understand that I am also responsible for ensuring that any vendors engaged on behalf of the Higher Education Student Assistance Authority will comply with these Guidelines.

Firm _____

By _____

Title _____

Date _____

Confidentiality Agreement

_____ (Subcontractor), as a contractor of the law firm retained by the State of New Jersey, hereby acknowledges and agrees as follows:

1. All documents and data, including but not limited to financial, statistical, personnel, customer and/or technical documents, owned or supplied by the State to the Subcontractor shall be treated as confidential (Documents and Data). The Subcontractor shall take all necessary and reasonable precautions to ensure that the State's Documents and Data are safeguarded. Use of the Documents and Data is strictly limited to that use necessary to complete the scope of work agreed upon, which may include disclosure to employees, officers or agents of any subcontractor assisting with the scope of work. Any other use, and any sale or offering of the Documents and Data in any form by the Subcontractor, or any individual or entity in the Subcontractor's charge or employ, will be considered a violation of this Confidentiality Agreement and may result in contract termination of the agreement between Subcontractor and the law firm retained by the State, and the Subcontractor's suspension or debarment from State contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.
2. Subcontractor shall be responsible to ensure that all individuals or entities in the Subcontractor's charge or employ adhere to this Confidentiality Agreement. A breach of confidentiality by any individual or entity in the Subcontractor's charge or employ will be considered a violation of this Confidentiality Agreement by the Subcontractor.
3. In the event that Subcontractor or any individual or entity in the Subcontractor's charge or employ receives a subpoena, demand, or other request for any of the State's documents or data, Subcontractor shall promptly notify the State and shall not turn over any of the State's documents or data.
4. The Subcontractor shall comply with all applicable State and Federal laws that require the notification of individuals in the event of unauthorized release of personally-identifiable information or other event requiring notification. In the event of a breach of any of the Subcontractor's confidentiality obligations or other event requiring notification under applicable law ("Notification Event"), the Subcontractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State of New Jersey and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.
5. Upon termination of this Confidentiality Agreement the Subcontractor shall return or erase, destroy, and render unreadable all Subcontractor copies of State Documents and Data, both physical and electronic, and certify in writing that these actions have been complete within 30 days of the termination of this Confidentiality Agreement or within 14 days of the request of an agent of the State, whichever shall come first.
6. This Confidentiality Agreement shall terminate upon the Subcontractor's termination of the contract between the law firm retained by the State and Subcontractor or upon completion of the scope of work related to the State.

Firm _____

By _____

Title _____

Date _____