



NEW HAVEN PUBLIC SCHOOLS

Operations Memorandum

To: New Haven Board of Education Finance and Operations Committee
From: Thomas Lamb, Chief Operating Officer
Date: June 22, 2021
Re: Approval of Legal Agreement with Berchem Moses Firm PC

Contractor Name: Berchem Moses PC

Contractor Address: 75 Broad St, Milford, CT

Is the contractor a Minority or Women Owned Small Business? No

Renewal or Award of Contract/Agreement? Renewal

Total Amount of Contract/Agreement and the Hourly or Service Rate: \$50,000.00

Contract or Agreement #:

Funding Source & Account #: 2021-2022 Operating Budget 190-47700-56696

Key Questions: (Please have someone ready to discuss the details of each question during the Finance & Operations meeting or this proposal might not be advanced for consideration by the full Board of Education):

- 1. What specific service will the contractor provide:**
Outside legal services represent a critical support for the Board of Education on matters of statutory and regulatory interpretation and compliance. This firm will be providing to the district, general legal services.
- 2. How was the contractor selected? Quotes? RFP? Sealed Bid or Sole Source? Please describe the selection process including other sources considered and the rationale for selecting this method of selection:** RFQ 2021
- 3. If this is a renewal with a current vendor, has the vendor's performance been satisfactory under the existing contract or agreement?** Renewal
- 4. If this Contract/Agreement is a Renewal has cost increased? If yes, by how much?**
N/A
- 5. If this Contractor is New has cost for service increased from previous years? If yes, by how much?** No
- 6. Is this a service existing staff could provide? Why or why not?**
The firm has specialized in Educational Law, their knowledge is critical under this agreement, as well as their experience with the Board of Education, in such matters..



**RESPONSE TO REQUEST FOR PROPOSAL
Representation of New Haven Public Schools
Legal Services**

**Mr. Thomas Lamb
Chief Operating Officer
New Haven Public Schools
54 Meadow Street
New Haven, CT 06519**

**Submitted by:
Floyd J. Dugas
Michelle C. Laubin
BERCHEM MOSES PC
75 Broad Street
Milford, CT 06460
Tel 203-783-1200**

**fdugas@berchemmoses.com
mlaubin@berchemmoses.com**

**Due Date: June 23, 2021
Submission Date: June 22, 2021**

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BERCHEM MOSES.COM

75 Broad Street
Milford, CT 06460
T: 203.783.1200
F: 203.878.2235

1221 Post Road East
Westport, CT 06880
T: 203.227.9545
F: 203.226.1641

Robert L. Berchem
Marsha Belman Moses
Stephen W. Studer ▶
Richard J. Buturla
Floyd J. Dugas
Ira W. Bloom
Jonathan D. Berchem ●
Michelle C. Laubin ◆
Gregory S. Kimmel
Christopher M. Hodgson
Mario F. Coppola
Christine A. Sullivan

June 22, 2021

Mr. Thomas Lamb
Chief Operating Officer
New Haven Public Schools
54 Meadow Street
New Haven, CT 06519

Re: **Request For Proposals - Legal Services**

Dear Mr. Lamb:

This letter is in response to the New Haven Board of Education's Request for Proposals ("RFP") for Legal Services for the 2021/2022 Fiscal Year.

The enclosed materials are a summary of our related experience, information regarding Berchem Moses PC, and why we strongly believe we are the best choice for the Board for its Legal Counsel. Should you have any questions or need any additional information, please feel free to contact the undersigned at (203) 783-1200. Thank you for the opportunity to present this proposal and to be considered for the role of legal counsel to the New Haven Public Schools.

Very truly yours,

Michelle C. Laubin

Paula N. Anthony ◆
Richard C. Buturla
Ryan P. Driscoll ◆◆
Bryan L. LeClerc ◆
Brian A. Lema
Douglas E. LoMonte

Alfred P. Bruno
Jacob P. Bryniczka
Eileen Lavigne Flug
Peter V. Gelderman ◇
Warren L. Holcomb
Eugene M. Kimmel
Paul A. Testa * ▶

Nicholas R. Bamonte
Carolyn Mazanec Dugas
Rebecca E. Goldberg
Kyle G. Roseman
Justin Stanko
Matthew L. Studer
Tyler I. Williams

* - Also Admitted in FL
◇ - Also Admitted in IL
▶ - Also Admitted in MA
◆ - Also Admitted in NJ
◆ - Also Admitted in NY
* - Also Admitted in PA

**PLEASE REPLY TO
MILFORD OFFICE**

2. EXPERIENCE

(a) Background

Berchem Moses PC's roots date back to 1933. Today the firm is a multi-practice law firm that has grown to approximately 35 lawyers with offices in Milford and Westport, Connecticut, serving the entire state.

Berchem Moses PC has been a prominent player in all aspects of the education law field for over 40 years. We currently represent approximately 30 boards of education throughout the State of Connecticut in a variety of roles and capacities, including labor and employment, general counsel, and special education. We provide to our board of education clients the full range of services, including advice and negotiation as to certified and non-certified employees, regular updates on statutory changes and other legal developments, reviews and revisions of board policies and student handbooks, workshops and CEU seminars for staff, student discipline matters, representation in transportation, residency and teacher termination hearings, advice on first amendment issues, special education and disability law, research assistance and general legal advice.

Our approach to representation of boards of education is strongly pro-active. We strive to help clients prevent crises and minimize expense by problem solving, training staff and continually updating decision makers on changes in the law and trends in the education community. We take a practical view to dispute resolution, frequently providing clients with a cost benefit analysis of the various options and an analysis of the law, both favorable and unfavorable, prior to embarking on a course of action to address the

dispute. When disputes enter the administrative process and/or courts, we provide representation that is zealous, aggressive, creative and highly professional. In an ongoing attempt to assist our clients to keep updated in the ever-evolving field of education law, we maintain an [education law blog](#), and invite you to visit it at your convenience. We update our blog on a regular basis as new cases are issued, statutes and regulations are passed, and this area of the law continues to develop. In addition, we send periodic client advisories to clients when necessary, to advise them that the law or its interpretation has changed in some material respect, and that they may need to take some responsive action. We also provide in-district professional development upon request. Prior to COVID-19, at least once each spring upon the close of the legislative session, we held a wide-ranging full-day, off-site client seminar designed to bring our clients up to speed on major legislative and case law developments from the school year and the legislative session; we plan to resume this program in 2022.

While our firm is comprised of approximately 35 attorneys, there are six attorneys who work exclusively in the field of education law, with support from two paralegals. Of these attorneys, approximately half of them are dedicated to the area of student matters and the other half to the area of employment and labor matters, although there is some overlap. The size and structure of this department, we believe, is unique in that it allows us the depth to provide responsive and quality service while at the same time personalizing those services and ensuring that a matter is not rotated through multiple attorneys. In addition, as education matters may become increasingly complex, given the other departments in our firm, as discussed below, when an education matter results in litigation, or requires real estate expertise, because we have a highly sophisticated

Litigation Department and a Real Estate Department, we can efficiently and easily access such levels of legal expertise as may be necessary in order to ensure the full level of services our board clients may require. We are confident that this firm can and does respond to the full expanse of legal questions and issues that arise within the school environment.

(b) Work History Representing Boards of Education

General Counsel

We serve as General Counsel to a number of school districts, ranging from the State's largest school district to those among the smallest. We have both developed form contracts to use for vendors, as well as negotiated, and resolved as necessary, specific contracts, including bus contracts, food service contracts, equipment leases, software licenses, procurement contracts, and the like. As student data privacy laws have become increasingly important, we work with our clients to ensure that appropriate contractual language is included in a variety of contracts that may be impacted by such provisions. In the area of facilities, we have addressed on behalf of our board of education clients numerous issues involving air quality, soil contamination, and have successfully defended cases brought by parents against school districts claiming that their children's health has been negatively impacted as a result of alleged contamination in school buildings. In this regard, we work with numerous experts in the field of environmental health and air quality specialists. We have represented board clients both in new construction as well as in those unfortunate situations when problems arise during construction and legal action is required.

We frequently work with boards of education to develop policies and ensure that policies are updated. The issue of bullying, and cyberbullying in particular, is among the issues currently challenging many of our school districts, and we not only assist to ensure that policies are in place, but also consult with administrators and teachers so they understand how to implement the policies and address these issues. If a district is faced with a claim of bullying or harassment, either through an internal investigation process, or through an agency complaint, we assist with insuring that the proper procedures are followed in the processing of any such complaint. And we of course handle all student discipline matters and represent either the administration or the board of education at expulsion hearings, as requested. We have done so at literally hundreds of expulsion hearings. Finally, we represent boards in school accommodation hearings involving issues of residency and transportation on a regular basis.

Furthermore, we have extensive experience in the full penumbra of issues faced by school districts including compliance with the Family Educational Rights and Privacy Act (FERPA), the Freedom of Information Act (FOIA), and regularly counsel school districts through the minefield of religion in the schools, First Amendment and other constitutional law-based claims. Our scope of services of our board clients includes representation of them at these federal and state agencies when FERPA, FOIA and discrimination/harassment claims filed before the CHRO arise. We have extensive experience assisting districts to prevent and prepare for threats to school safety, as well as responding in the aftermath of a school safety crisis. We have provided extensive trainings to our school district clients on compliance with their duties as mandated reporters of suspected child abuse and neglect, and the heightened sensitivity under the

law that is being brought to bear on this important issue from sources inclusive of the Department of Children and Families (DCF), the Office of the Child Advocate (OCA), and the State's Attorney's Office.

Special Education and Pupil Services

Berchem Moses PC is one of the most experienced and successful firms in the State in handling special education matters. Our representation of boards of education in this area is multi-dimensional. First, we spend a significant amount of time as requested by our board of education clients conducting in-service training for educators, including teachers and administrators. We also provide presentations to boards of education and town fiscal authorities in order that there be an understanding of the extent of the federal mandates regarding the scope of the applicable laws. We believe that this type of proactive intervention is critical for today's educators, particularly in the field of special education where knowledge of the key provisions of the procedural and substantive areas of the controlling State and federal laws is essential.

Second, we are frequently contacted by the administration if parents notify the district that they are bringing counsel to a planning and placement team meeting. At that time, most often the district requests that this office, as its counsel, attend that meeting and if requested, we will do so. In attempts to reach settlements of pending disputes, we represent the district in resolution meetings and/or mediations and in those instances when those dispute resolution mechanisms prove unsuccessful, we represent the districts in due process hearings.

When a due process hearing is threatened or commenced, we produce a cost-benefit analysis for clients when requested, given what is often the extraordinary expense

to a Board of such a hearing, both in terms of actual financial cost, as well as intangible cost to the staff and administration. However, when it is necessary to proceed to due process, we work diligently with the staff members who are witnesses to ensure that they are well prepared for their testimony. Our track record in due process proceedings is very strong. In New Haven alone, we have represented the district in a variety of due process hearings involving various claims of denial of the right to a free and appropriate public education and have been very successful in doing so. If a due process case is appealed into court, we represent the Board in that venue as well, most often federal court, where, as necessary, our litigation department often pairs with us to lend expertise. In the past, we have successfully defended decisions rendered by hearing officers in New Haven cases at the federal district court level, and if necessary, we are able to represent the Board at the United States Court of Appeals for the Second Circuit. Our litigation department is chaired by Senior Partner Richard Buturla, whose resume is included in Appendix A.

Section 504 of the Federal Rehabilitation Act is a federal anti-discrimination law that has potentially far-reaching effects in schools. Districts must be cognizant of its impact and again, this is an area for which we frequently provide training to educators. In fact, in the past two school years, we have provided at least ten separate training sessions to different school districts on the topic of Section 504. In addition, parents often file complaints regarding alleged violations of this law with the United States Department of Education Office for Civil Rights and we often represent or assist districts in the response to such complaints, including when OCR interviews district witnesses (including teachers and administrators). Recently, we have been involved in several OCR complaints, and

following our written response to the complaint, preparation of witnesses and our presence during the witness interviews, we were pleased to report that OCR found no violations by the Board and dismissed the complaints. A parent can also request a hearing under Section 504, which is an administrative hearing similar to a due process hearing and we have successfully represented districts in 504 hearings.

Finally, when parents file a complaint against a school district with the Connecticut State Department of Education, the State Department of Education conducts an investigation of the complaint which consists of a response to the complaint, and a review of documents (although no interviews occur) and when requested by our clients, we assist districts in responses to the complaint. In those instances when corrective action is necessary, we assist our school district clients in ensuring compliance with the corrective actions. In some cases, these types of complaints can be resolved through negotiation or mediation, and of course, we assist our clients with those proceedings as appropriate. When we draft a settlement or mediation agreement, we craft each agreement using a template that has been molded and refined over almost 40 years of experience in the field of special education matters, and the final product is a quality document that is clear, concise, and enforceable. In those rare instances where it has been necessary to present one of our settlement agreements to a court, hearing officer, or administrative agency for interpretation, our agreements are routinely enforced by the reviewing agency. Our depth and breadth of experience with the issues that can arise in interpretation and enforcement of settlement agreements means that we anticipate issues with interpretation before they occur and can include language to address the vast majority of such issues in advance.

In our work in the field of special education and pupil services, we frequently draft contracts for out-of-district placements, for transportation, and for consultants who will be working with the district in a variety of capacities. We also assist districts in formulating policies and procedures that comply with the myriad of State and federal regulatory requirements applicable in the field of special education and education of individuals with disabilities. We regularly present at State-wide conferences on subjects related to the IDEA and Section 504, and our Partner Michelle Laubin serves as counsel to the Connecticut Council of Administrators of Special Education (ConnCASE), in which capacity she regularly advises policymakers at the State level on the likely impact of proposed State legislation in the area of special education. Our special education attorneys Marsha Moses and Michelle Laubin have most recently been asked to serve on various task forces and advisory groups at the State level providing expertise to State officials concerning the State's response to the COVID-19 school closure and re-opening process.

Labor and Employment Services

The firm also possesses expertise and a record of highly successful results in the labor and employment areas, representing boards of education across the state in contract negotiations, interest and grievance arbitrations, defense of discrimination and wage claims and providing timely and practical employment-related advice.

Our attorneys regularly obtain among the lowest arbitration awards in the state, including many wage and step freezes over the last several years. At the beginning of the Great Recession, we achieved the first wage freeze in the state for certified employees in the wake of the financial crisis through arbitration, which was widely

recognized as instrumental in starting the trend of wage freezes throughout the state. The average for contract settlements negotiated by our attorneys typically is below the state average for the same time period. Our partner Floyd J. Dugas is widely recognized for his expertise in this area, and is regularly called upon by CABA to serve as a speaker at seminars and to deliver other presentations on the topic of labor negotiations.

During recent years, our attorneys have been involved in a number of matters of State-wide significance. For instance, Attorney Dugas was involved in the discussions resulting in the New Haven Reform contract, which was heralded by local and national leaders as a model for public school reform. In addition to being duplicated by cities such as Philadelphia, it was recognized by the Obama administration as precisely the type of reform needed to improve student achievement. As you know, the State statute on Education Reform is also modeled after the contract developed in New Haven. An achievement of this magnitude was only feasible as a result of a productive working relationship with local and statewide teacher unions. Attorney Dugas also negotiated on behalf of the City of New Haven the various contracts covering the New Haven Board of Education's non-certified employees, making him very familiar with those contracts as well.

While we always seek to avoid litigation through discussions and mediation where possible, over the years we have prosecuted numerous teacher and administrator terminations when settlement has proved unfeasible. For example, in a hearing that was tried to final decision, we successfully terminated a teacher based on a myriad of psychiatric disabilities which impacted performance in the classroom. We successfully prosecuted the termination of a teacher in New Haven who used a racial epithet; that

teacher appealed the decision to the Connecticut Superior Court, citing among other things the First Amendment, and we successfully defended the appeal. We have also been involved in one of the few termination hearings in the State of a Superintendent of Schools and have successfully defended multiple efforts in various forums to overturn that decision.

We are particularly proud of our negotiation success in minimizing salary increases and negotiating wage freezes and benefits adjustments as our clients have struggled to adjust union expectations to the realities of the day. At the same time, we are equally proud that our negotiation style avoids the short-sighted "scorched earth" tactics of some firms that can damage or destroy the essential relationship between board employer and school staff. Our approach -- aggressive but professional and emphasizing mutual interests, problem-solving, creativity and flexibility -- builds mutual trust and respect and is in the long-term interests of the Board and the employees, as well as the taxpayers and the students.

We appear frequently before the Commission on Human Rights and Opportunities (CHRO) defending boards of education and are on the approved list of several insurance companies, including CIRMA, to defend employers in such matters. We also regularly appear before the State Board of Labor Relations, the Board of Mediation and Arbitration and the American Arbitration Association, defending board clients against claims of violating the state labor laws and collective bargaining agreements, as well as other administrative agencies such as the Connecticut Workers Compensation Commission. By way of example, we achieved a first of its kind result regarding the appropriate cost basis to use for calculating employee contributions in a self-insured plan in a decision

which saved one board client approximately \$700,000 in retroactive claims and \$350,000 per year going forward.

Please feel free to visit our website at www.berchemmoses.com for more information, as well as our blogs, [Connecticut Education Law Blog](#) and [Connecticut Labor & Employment Law Journal](#). Please see Section (c) below (Organizational Structure) for biographies of the partners who would regularly interact with the New Haven Board of Education.

(c) Organizational Structure

We propose a team of two primary “lead counsel” partners, highly experienced in education law matters, to meet the Board’s need for legal services. These attorneys will be available to the Board at all times. The lead attorneys are supported by associates and partners in other departments who are available to lend support to the team as needed. Following is a brief biographical overview:

(i) Michelle C. Laubin (Senior Partner)



Attorney Laubin is a summa cum laude and Phi Beta Kappa graduate of Wells College in 1993 and received her J.D. from Northeastern University School of Law in 1996. Attorney Laubin is a Senior Partner whose practice is concentrated in the area of education law, particularly special education law and student matters. Ms. Laubin is a frequent speaker on education law issues with local school districts, as well as the Connecticut Bar Association, CABE, ConnCASE (Connecticut Council of Special Education Administrators) and other state and regional organizations. She is a member of the Connecticut Bar Association

Education Law Committee and the Professional Discipline Committee and is a past-President of the Connecticut School Attorneys Council. She has successfully argued cases before the State Department of Education, the United States District Court for the District of Connecticut, and the United States Court of Appeals for the Second Circuit, as well as formulating key arguments in education law cases argued by the firm before the Connecticut Supreme Court. She has represented school districts in countless student discipline, residency, transportation, and special education matters, including attending PPT meetings, negotiation of settlement and mediation agreements, representation in expulsion and due process hearings, resolution of State Department of Education complaints and OCR complaints. In addition to her work representing school districts, she acts as legal advisor to ConnCASE, the Connecticut Council of Special Education Administrators, served on an invitation-only State Department of Education task force on the subject of reform of the special education due process hearing process, and on the State Department of Education's School Discipline Collaborative, whose mission is to promote practices and policies to promote equity and reduce racial disparities in student discipline. Most recently, Attorney Laubin has been on various task forces and stakeholder groups convened by the State Department of Education and the Bureau of Special Education to obtain stakeholder input into the processes utilized by school districts during the COVID-19 school closure and considerations for the re-opening process. Attorney Laubin is rated AV Preeminent by her peers in Martindale-Hubbell, its highest designation.

(ii) **Floyd J. Dugas (Senior Partner)**



Attorney Dugas is a 1981 cum laude graduate of the University of Connecticut and received his J.D. from the Temple University School of Law in 1986. Throughout his career, he has specialized in labor and employment law. As Chair of the firm's Labor and Employment Law Department, Attorney Dugas coordinates the Municipal Labor practice. He serves as General Counsel to a number of school boards. He also serves as chief negotiator and labor counsel for a number of boards of education. He represents boards in all facets of labor and employment and general education including contract administration, arbitration, prohibited practice charge hearings, and certified staff termination proceedings.

Among his many accomplishments, Attorney Dugas successfully defended the West Haven Board of Education against the first ever claim in this state for education malpractice. He also was among the first attorneys in recent years to secure wage freezes, step freezes and major insurance plan redesigns in interest arbitration on behalf of school districts we represent. He has appeared before the State Supreme Court on other municipal labor matters. He has represented employers in literally hundreds of arbitrations and in wrongful discharge and discrimination litigation. Attorney Dugas is an arbitrator on the State of Connecticut Department of Education Panel of Arbitrators, and is Chair of the Personnel and Benefits Committee of the Easter Seal Rehabilitation Center of Greater Waterbury, Inc. He regularly lectures on labor, employment and education law topics and is a regular presenter at CABA's annual

negotiation seminar. He has presented at the National School Board Association Conference in San Francisco on the topic of School Reform, and in San Diego and San Antonio on the topic of school safety. He is a member and past president of the Connecticut Counsel of School Attorneys and is a member of the National Council of School Board Attorneys. Mr. Dugas is rated as AV Preeminent by his peers in Martindale-Hubbell, its highest designation, and has been recognized by Connecticut and New England Super Lawyers since 2014. In 2018 and 2019, he was recognized by U.S. News & World Report's Best Lawyers in America.

(iii) **Others**

In addition to the foregoing, the firm has several partners and associates who we would anticipate will be assisting in the delivery of services as needed, especially in the areas of litigation, research, policy work, and CHRO matters. They include: Christine Sullivan, Carolyn Dugas, Paula Anthony, Christopher Hodgson, and Rebecca Goldberg. Their resumes are attached in the Appendix. And as previously noted, members of our litigation department, chaired by Partner Richard Buturla, assist with any matters that are filed in either state or federal court. Mr. Buturla's resume can also be found at Appendix A. You have our commitment that any of the firm's attorneys needed to provide the best services to the Board will make themselves available and provide whatever time is required to meet the needs of the Board.

(d) Resumes

MICHELLE C. LAUBIN, ESQ.

EDUCATION

NORTHEASTERN UNIVERSITY SCHOOL OF LAW, J.D., 1996

WELLS COLLEGE, B.A., 1993, Summa Cum Laude, Phi Beta Kappa

BAR ADMISSIONS

State of Connecticut, District of Connecticut, State of New York, Second Circuit Court of Appeals

PROFESSIONAL EXPERIENCE

- Representation of school districts in expulsion and residency/school accommodations hearings before full boards of education and impartial hearing boards, and counsel to local boards of education during expulsion hearings.
- Representation of school districts in special education due process hearings before hearing officers appointed by the State Department of Education.
- Representation of school districts in federal courts on appeals of special education due process hearing decisions, and related matters such as claims for attorney's fees and claims of discrimination under Section 504 of the Rehabilitation Act.
- Representation of school districts before State and Federal administrative bodies such as the Freedom of Information Commission, the Connecticut Commission on Human Rights and Opportunities, the complaint process of the Connecticut State Department of Education, and the United States Department of Education Office for Civil Rights.
- Advice and counsel to school districts on matters of policy, development of board policies and procedures, and in-service training of school district staff on general and special education matters including the Individuals with Disabilities Education Act (IDEA), Freedom of Information Act requests, records retention and confidentiality, student and staff First Amendment rights, student discipline, residency requirements, and privacy rights.

SPECIAL HONORS

- Obtained an AV® Preeminent rating from Martindale-Hubbell's Peer Review Ratings in April 2012. AV® Preeminent is the highest rating given in the peer review process conducted by Martindale-Hubbell and attests to an attorney's high ethical standards and legal ability.
- Connecticut Association of School Psychologists (CASP), Presidential Citation, 2018

SELECTED SEMINARS AND SPEAKING ENGAGEMENTS

- October 27, 2020, Connecticut Association of Boards of Education (CABE), Special Education Legal Update
- January 24, 2020, ConnCASE, Special Education Legal Update
- August 18, 2020, Amity Public Schools, Title IX Sexual Harassment Training
- June 13, 2019, Berchem Moses PC Annual Roundtable, National Case Law Review, Mental and Behavioral Health
- November 6, 2018, Fairfield Health Department, FERPA and HIPAA Issues for School Nurses
- September 7, 2018, ConnCASE Region 5, Annual Legislative Update
- August 22, 2018, Naugatuck Public Schools, Issues in Mandated Reporter Training
- June 8, 2018, Berchem Moses PC Annual Roundtable, 2017-2018 In the Rear View Mirror
- March 22, 2018, ConnCASE/SERC/CSDE March Leadership Forum, The Roles of School Districts and State Agencies in Providing Residential Placement for Students with Severe Mental and Behavioral Health Needs: How to Navigate the Current System, with Robin Keller, Esq.
- November 18, 2017, CABE/CAPSS Conference, Protecting Transgender Kids: Untangling the Web of State and Federal Guidance
- November 17, 2017, CABE/CAPSS Conference, Why are We Still Failing African American and Latino Males? With Typhanie Jackson, Heriberto Cordero, and Kermit Carolina, New Haven Public Schools
- November 10, 2017, CASP, School Psychologist Confidentiality
- November 10, 2017, CASP, Case Law Roundup 2016-2017
- September 28, 2017, New Haven Public Schools, The Role of the Section 504 Case Manager
- August 24, 2017, West Haven Public Schools, Family Educational Rights and Privacy Act (FERPA)
- August 24, 2017, Derby Public Schools, Development & Implementation of 504/IEP Accommodations
- March 21, 2017, ConnCASE/SERC/CSDE March Leadership Forum, Residential Placement Standards: When Is It Required for FAPE?
- November 2016, CABE/CAPSS Conference, Race...It Does Matter, with Typhanie Jackson, New Haven Public Schools

SELECTED PUBLICATIONS

- Regular Author and Contributor, www.connecticuteducationlawblog.com
- Co-author, chapter, *Understanding the Legal Landscape*, in *School Nurse Administrators: Leadership and Management*, published by the National Association of School Nurses, February 2013
- Cited, *Legislature Refocuses on Increasing In-School Suspensions and Reducing Bullying in Schools*, March 2009 Connecticut Lawyer Magazine, by Stephanie B. Nickse

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

Connecticut Bar Association, Professionalism Section, Executive Committee

Connecticut Bar Association, Education Law Section, Executive Committee

American Bar Association, Member

Connecticut School Attorney's Council, Past President

Opportunity House, Hamden, CT, Past President, Board of Directors

Second Company Governor's Horse Guard, 2003-2004

National School Boards Association, Council of School Attorneys, Member

City of Shelton, Board of Apportionment and Taxation, 2018-present

National Board for Certification of School Nurses (NBCSN), Public Member, 2019-present

Valley NAACP, Education Committee, 2021

FLOYD J. DUGAS, ESQ.

EDUCATION

TEMPLE UNIVERSITY SCHOOL OF LAW, J.D., 1986, Cum Laude

UNIVERSITY OF CONNECTICUT, B.S., 1981, Cum Laude, Member Moot Court Team

BAR ADMISSIONS

Connecticut, Federal District Court of Connecticut, Second Circuit Court

PROFESSIONAL EXPERIENCE

- Counseling and representation of private and public sector employers in all aspects of labor law.
- Has served as chief negotiator for numerous employers in negotiations with their Unions in both private and public sector, including teachers, school administrators, police and fire.
- Regularly defends employers in employment related litigation, including the defense of Federal and State-based claims of discrimination, wrongful discharge, workers' compensation retaliation, and virtually all other claims growing out of the employer-employee relationship.
- Representation of public employers in the discharge of public employees including teachers and police officers.
- Serves as general counsel to several boards of education.

SELECTED ACHIEVEMENTS

- Successfully negotiated insurance plan design changes and premium co-payments, saving one municipal client millions in costs.
- Negotiated pay freezes and increment freezes in a number of contracts saving clients substantial sums.
- Successfully defended private and public sector clients in hundreds of grievance arbitration proceedings.
- Achieved the lowest teacher arbitration awards in the State in each of 2002 and 2003; including a wage and step freeze.
- Successfully defended the first ever successful termination of a chief of police under the State's difficult just cause statute; in appeals going to the State Supreme Court. Anziano v. Town of Madison, 229 Conn. 703 (1994).

- Has litigated several landmark cases in the employment law area, including, *Anziano v. Board of Police Commissioners*, 229 Conn. 703 (1994); *Stratford v. State Board of Mediation and Arbitration*, 239 Conn. 32 (1996) (resolving the issue over which party can reject a binding arbitration award); and *Scandura v. Friendly Ice Cream Corporation*, J.D. of Hartford - New Britain, CV 930529109S (defining levels of conduct which will not give rise to a claim for intentional infliction of emotional distress).
- Was involved in discussions resulting in the New Haven Reform contract, which has been heralded by local and national leaders as a model for public school reform.

SEMINARS AND PUBLICATIONS

Seminar presenter on various labor and employment law topics since 1986, including "Unemployment Practice and Procedure," "Collusion of the ADA and the Workers' Compensation Laws", and "Negotiating in Difficult Times". Author of several articles for and is a frequent seminar presenter for the Connecticut Conference of Municipalities and Connecticut Association of Boards of Education on education, labor and employment law issues. Has presented at the National School Board Association Conferences in San Francisco, San Diego and San Antonio on topics including school reform and school safety, among many other high profile speaking engagements.

PROFESSIONAL AND COMMUNITY AFFILIATIONS

Connecticut Bar Association
 American Bar Association
 CONNPELRA Member
 Chairman, Personnel and Employee Benefits Committee, Rehabilitation
 Center of Greater Waterbury
 Connecticut Council of School Board Attorneys (Past President)
 National Counsel of School Board Attorneys
 Member, New Haven Country Club
 Arbitrator, Connecticut Department of Education, Teacher/Administrator Binding Arbitration Panel
 Former Adjunct Professor, University of New Haven, Master Program in Labor Relations

AWARDS AND RECOGNITION

- Martindale-Hubbell AV Preeminent rated attorney, derived from peers' evaluation of a lawyer's legal ability and general ethical standards.
- Connecticut and New England Super Lawyers; Employment and Labor; Schools and Education (2014-2018)

Recognized by U.S. News & World Report's Best Lawyers in America for Labor Law – Management

3. REFERENCES

We have been fortunate enough to represent the New Haven Public Schools in a wide variety of matters over many years, which means that we are already well-known to many people within the district, with whom we work well. We represented the Board in all matters, inclusive of labor and employment and general counsel matters, for eight years, and then in 2018, our representation continued in the area of special education matters and ongoing litigation matters, most of which had arisen out of employment disputes. To the extent that, in the last couple of years, the scope of our representation of the Board has narrowed, you may need additional references for us, particularly in the area of labor and employment and general counsel work. The following is a partial listing of boards of education this firm currently represents and includes a summary of the nature of the matters handled. This information reflects the extensive knowledge and experience of this firm in providing legal services to school districts. We have also provided names and numbers of contact persons and welcome you to contact any of the individuals listed below for references.

(1) **Milford Board of Education** – We have represented the Milford Board of Education for 47 years. We represent the Board as labor counsel, general counsel and in all special education matters, both at the administrative and judicial levels. In such capacity, we negotiate all certified and non-certified collective bargaining units, handle all grievances and arbitrations, counsel and represent the Board in all teacher disciplinary matters, as well as CHRO and other discrimination claims. We also provide in-service

training seminars on a myriad of current legal and pragmatic issues for all levels of staff and administration.

Contact: Anna Cutaia, Ed.D., Superintendent
(203) 783-3422

Christopher Brown, Director of Pupil Personnel Services
(203) 783-3491

(2) **Bridgeport Board of Education** - We serve as general counsel, representing the district in all areas including special education and labor.

Contact: Michael J. Testani, Superintendent of Schools
(203) 275-1001

Robert E. Arnold, Interim Executive Director of Specialized Instruction
(203) 275-1306

(3) **West Haven Board of Education** – We serve as general counsel, labor and employment counsel, and special education counsel, and have for more than 40 years.

Contact: Neil Cavallaro, Superintendent
(203) 937-4320

Joseph Lucibello, Director of Pupil Services
(203) 937-4333

(4) **Region 17 Board of Education** – We serve as labor counsel and general counsel to Region 17 (Haddam/Killingworth).

Contact: Holly Hageman, Superintendent
(860) 345-4534

(3) **Trumbull Board of Education** – Our representation of the Trumbull Board of Education dates back 30 years and encompasses special education work, general counsel and labor counsel.

Contact: Dr. Martin Semmel, Superintendent
(203) 929-4285

Dr. Tammy Hartman, Director of Pupil Services
(203) 452-4352

(4) **Groton Board of Education** – We have served as general counsel to the Groton Board of Education since 2000, where we have represented the district in all areas including special education and labor.

Contact: Susan Austin, Superintendent
(860) 572-2115

Denise Doolittle, Director of Pupil Services
(860) 572-2152

(5) **Cheshire Board of Education** – We serve as general counsel to the Cheshire Public Schools and our representation encompasses all areas of legal services.

Contact: Jeff Solan, Superintendent
(203) 250-2420

(6) **Westport Board of Education** – We have served as special education counsel to the Westport Board of Education for over 30 years.

Contact: Michael Rizzo, Assistant Superintendent of Pupil Services
(203) 341-1026

(7) **Norwalk Board of Education** – We represent the Norwalk Board of Education in special education matters.

Contact: Yvette Goorevitch, Chief of Specialized Learning and Student Services
(203) 854-4126

(8) **Madison Board of Education** – We serve as special education counsel for the Madison Board of Education.

Contact: Dr. Elizabeth Battaglia, Director of Special Education
(203) 245-6340

(9) **Stamford Board of Education** – We replaced a large Hartford based firm as special education counsel. We have also served as special counsel in handling the termination of certified staff.

Contact: Wayne Holland, Director of Special Education
(203) 977-4853

(10) **Region 5 (Amity) Board of Education** – We serve as general counsel and special education counsel to the Amity Board of Education. We also represent the member districts of Woodbridge, Orange, and Bethany.

Contact: Dr. Jennifer Byars, Superintendent
(203) 397-4811

Thomas Brant, Director of Special Education
(203) 397-4821

(11) **Easton/Redding/Region 9 Board of Education** – We serve as special education counsel to the Region 9 Board of Education, and the member districts of Easton and Redding.

Contact: Michael DiStefano, Director of Special Education
Region 9
(203) 938-2508

Jennifer Del Conte, Director of Special Education
Easton/Redding
(203) 938-9026

(12) **Hartford Board of Education** – We recently replaced a large Hartford firm in representing the Hartford Public Schools in special education matters.

Contact: Jennifer Hoffman, Executive Director of Special Education
and Pupil Services
860-685-8600

4. BUDGET/FEE PROPOSAL

We believe we have a history of delivering legal services in a more cost-effective manner than other firms. This begins with matching the district's needs with the most appropriate lawyer on a given matter and continues with the senior partners involved closely monitoring invoices to ensure the fees billed reflect the value of services received by the client. Our associates and paralegals are involved in the files as appropriate, again with a sensitivity to cost controls, but without sacrificing quality of legal services. Our philosophy is the client should always feel that they have received a good value for the services rendered, and that there should never be a fee dispute with a client. It is not uncommon for a school district to tell us our bills are more reasonable than our predecessor where we have replaced another firm.

We recognize the budgetary constraints upon boards of education and therefore, we are prepared to adjust our private sector rates accordingly. Thus, we propose that our rates be set as follows: \$295 per hour for senior partners, \$275 per hour for junior partners and senior counsel/of counsel attorneys, \$205 per hour for associates and \$145 per hour for paralegal time. Our typical arrangement is that these rates will remain in effect for one year and thereafter, are subject to adjustment on an annual basis after prior notice to the client.

In addition, we would be willing to discuss a retainer for routine day to day advice, with matters such as litigation, arbitrations and administrative hearings charged hourly. We have similar arrangements with other clients and would be willing to explore a mutually agreeable arrangement with the New Haven Public Schools.

Please be aware that our practice is to provide our clients with the highest level of expertise necessary to accomplish the task in an efficient and effective manner. Thus, for example, in interest arbitrations, the firm's employment law paralegal will undertake much of the background research and collating of information under the supervision of the responsible partner; the responsible partner, of course, will organize and present the Board's case in the arbitration. By delegating much of the preparatory work to our paralegal, we are able to provide services in a more cost-effective manner, while still ensuring that the responsible attorney has total control over the applicable matter. This is to be distinguished from firms which offer a blended rate which results in paralegals billed out at lawyer rate.

We are confident that this firm can assist the Board in effecting cost savings as a result of our hourly rate, the manner in which we deliver services, and the results which we have obtained in all matters. Our monthly bills reflect a narrative of all services rendered, as well as any extraordinary expenses which have been incurred. We do not charge for "layering", a common practice in larger firms in which clients are double billed for intra-firm conferences or for the training of inexperienced attorneys. As a result, it is our experience that even at the same hourly rate, our total billing tends to be substantially less than other firms. We do not charge, either directly or indirectly for travel. We also do not charge for clerical services.

5. CURRENT PENDING MATTERS

Mavrelion v. New Haven Board of Education, NNH-CV16-6061151S

This case is pending in Superior Court and was assigned to us by Deputy Corporation Counsel Chris Neary just prior to his departure. The case sounds in retaliation for being a whistleblower and various CONN-OSHA violations. Trial was scheduled for May 2020 but was placed on hold pending resolution of a related administrative complaint before CONN-OSHA. The civil matter was placed on the dormancy calendar subject to dismissal for failure to prosecute in July 2020. Although the plaintiff did not act by the court's deadline, no action was taken by the court at that time since court operations were disrupted due to COVID-19. It is anticipated that the court will again place the matter on the dormancy calendar as court operations resume. The hearing on the administrative complaint before CONN-OSHA was postponed when Mavrelion was involved in a serious car accident, and has not been rescheduled. The matter is being handled by Partner Paula Anthony and Associate Rebecca Goldberg.

Brad Chernovetz v. Garth Harries, et al, NNH-CV-17-6075565-S

This lawsuit is pending in Superior Court. We are defending former Superintendent of Schools Garth Harries. The claims against the co-defendants were unilaterally withdrawn by the plaintiff in February 2020. The complaint grows out of the removal of Chernovetz from his coaching position, and reassignment as a math teacher following parental complaints. An arbitrator sustained a grievance filed by his Union. We were able to get a portion of it overturned in court. He then filed the instant action alleging intentional infliction of emotional distress and false light. We were successful in having the intentional infliction of emotional distress dismissed. Mediation scheduled for March

2020 was cancelled due to COVID-19 restrictions. The court recently denied our motion for summary judgment on the only remaining count of false light against Harries. The matter has not yet been assigned a new trial date. The matter is being handled by Partner Paula Anthony.

Cherlyn Poindexter v. Medria Blue-Ellis, et al. NNH-CV-17-5041683-S

This case grows out of an expulsion of a student for making a bomb threat. His mother, a former City Union official, claimed the discipline of her son violated his due process and statutory rights. We are defending the Board of Education and school district employees. The case is scheduled for trial in August 2021. We filed discovery which plaintiff has failed to comply with. We intended to file a dispositive motion prior thereto, but need plaintiff to respond to our discovery which she has failed to do. We moved for a nonsuit and judgment in favor of the Board due to the plaintiff's failure to comply. That motion was filed shortly before the courts closed due to the COVID-19 pandemic and, as of yet, has not been ruled upon. However, on June 21, 2021, the Court granted a Caseflow request to address these issues. We are hopeful the Court will address the lack of compliance. The Plaintiff also filed a labor board charge alleging that the student's expulsion was in retaliation for the Plaintiff's union activity. We are awaiting a decision in that matter. The matter is being handled by Attorney Alfred Bruno.

**OCR Title VI Compliance Action, Our file No. 18811-0351,
OCR Complaint No. 01-14-5003**

This is an action initiated by OCR in Boston to review concerns with disproportionate discipline of African American and Latinx students within the New Haven Public Schools, which has been ongoing since 2014. We last provided a batch of data to

OCR in June 2019 pertaining to the 2017-2018 school year. Senior Partner Michelle Laubin is handling this matter. We were contacted by a new investigator in the spring of 2020, who was proposing to conduct three (3) days of on-site visits in March 2020 to review and analyze data provided by the district, however, these visits were postponed due to the pandemic and have not been rescheduled to date. We anticipate that there will, at some point, be a negotiation with OCR concerning the content of a corrective action plan for the district regarding disproportionate representation of African-American and Latinx students among the population of students disciplined through exclusionary discipline measures such as suspension and expulsion. This matter is being handled by Senior Partner Michelle Laubin.

R.G. v. New Haven, Our File No. 18811-0364; CHRO Complaint No. 2030270

This case is currently pending before the CHRO on a complaint filed by a parent of a student who should be attending Wilbur Cross High School, but is instead being home-schooled. The general nature of the dispute concerns the parent's disagreement with the decision of the Planning and Placement Team (PPT) that the student does not qualify as a student with a disability. The parent believes that this decision is being made for retaliatory and discriminatory reasons, including based on race and disability, in part because the parent has a history of challenging other decisions made by the school district concerning other children in her family. The parent claims that she is unable to send her child to the general education program with Section 504 accommodations in district because that program does not meet the child's needs, and therefore, the district should compensate the parent for the costs of services and supports provided privately in the community. We have filed an appearance based on a joint request by corporation

counsel's office (Elias Alexiades) and the district that we continue to represent the district in this matter. We argued that the CHRO was not the appropriate forum for this complaint, and that the parent should challenge the PPT decision in a special education due process hearing, however, the matter was retained for further proceedings, which are currently underway before Investigator Catherine Spain. Most of the work is being handled by Associate Rebecca Goldberg, with assistance from Senior Partner Michelle Laubin.

In addition to the above matters, Attorney Michelle Laubin is currently representing the district in anywhere between 7 and 10 active special education matters at any given point in time, at various stages of resolution. These matters continue to cycle through periodically, and we provide the district with legal counsel including but not limited to attendance at PPT meetings, and representation in mediation and due process hearings, as well as assistance drafting or interpreting settlement agreements, drafting responses to State Department of Education or OCR complaints, conducting reviews of student records, meetings with school-based teams to provide brief advice, and similar types of interventions. We also provide assistance with regard to general student matters and contract negotiations as required by the Board. As an example, during the fall of 2020, Attorney Laubin assisted the district in retaining over \$3M in magnet school funding that the U.S. Department of Education had threatened to withhold over a dispute pertaining to the potential inclusion of transgender athletes on New Haven athletic teams.

6. CONCLUSION

We feel confident that Berchem Moses PC can provide the highest level of expertise and service to meet the Board's legal needs in a responsive and cost-efficient manner. We feel the quality of our services is enhanced by the strong professional relationships which evolve between our attorneys and clients. In this regard, we urge you to contact any of our current clients for references. We would be more than happy to meet with you or any board members or administrators who may wish to meet us personally.

Appendix A:
Additional Resumes

RICHARD J. BUTURLA, ESQ.

EDUCATION

VILLANOVA SCHOOL OF LAW, J.D., 1982
Villanova Law Review, Associate Editor, 1981 – 1982

SOUTHERN CONNECTICUT STATE UNIVERSITY, B.S., 1979
Honors: Magna Cum Laude

BAR ADMISSIONS

Connecticut, U.S. District Court District of Connecticut, U.S. Court of Appeals 2nd Circuit

PROFESSIONAL EXPERIENCE

- Senior Partner and Chairman of the Litigation Department at Berchem Moses PC since 1985
- Trial lawyer representing government officials, police officers, municipalities, boards of education, governmental agencies, and businesses in both state and federal court
- Appellate advocate representing government officials, police officers, municipalities, boards of education, governmental agencies, and businesses in the Connecticut Appellate Court, Connecticut Supreme Court and the United States Court of Appeals

APPOINTED POSITIONS

- Town Counsel, Seymour, Connecticut, 2011 – Present
- Town Attorney, Stratford, Connecticut, 2005 – 2009, 1995-1999
- Town Attorney, Cheshire, Connecticut, 2002 - 2004
- Corporation Counsel, Derby, Connecticut, 1997 - 2005
- Assistant Town Attorney, Stratford, Connecticut, 2000 – 2003

AWARDS AND RECOGNITION

- Martindale-Hubbell AV Preeminent rated attorney
- Best Lawyers in America
- New England Super Lawyers
- Connecticut Super Lawyers for Labor & Employment Law

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

- Connecticut Bar Association, Member
- American Bar Association, Member
- Connecticut Trial Lawyers Association, Member
- American Association for Justice, Member

AFFILIATIONS, PROFESSIONAL RECOGNITION AND COMMUNITY ACTIVITIES

- AV Peer Review Rating by *Lexis Nexis Martindale Hubble*, the highest possible rating signifying preeminent legal ability and integrity; awarded based on confidential survey responses from practicing attorneys
- Sustaining Life Fellow, James W. Cooper Fellows Program, Connecticut Bar Foundation
- Fellow, American Bar Foundation
- Council Chairman, Stratford Town Council, Stratford, Connecticut, 1987-1989

REPRESENTATIVE CASES

- *Armac Industries, Ltd. v. Citytrust*, 203 Conn. 394, 525 A.2d 77 (1987)
- *B.A. Ballou and Company, Inc. v. Citytrust*, 218 Conn. 749, 591 A.2d 126 (1991)
- *Bombero, Jr., Etal v. Planning and Zoning Commission of the Town of Monroe, et al.*, 17 Conn. App. 150, 550 A.2d 1098 (1988)
- *Citytrust v. Page*, 28 Conn. App. 907 (1992)
- *D.J. Quarry Products, Inc. v. Planning and Zoning Commission of the Town of Beacon Falls*, 217 Conn. 447, 585 A.2d 1227 (1991)
- *Dean v. Filipowich, et al*, 20 Conn. App. 825, 570 A.2d 243 (1990)
- *Dennin v. Connecticut Interscholastic Ath. Conf.*, 94 F.3d 96 (D. Conn. 1996)
- *Dennin v. Connecticut Interscholastic Ath. Conf.*, 913 F. Supp. 663 (D. Conn. 1996)
- *Federal Deposit Insurance Corporation v. Sextant Development Corporation, et al.*, 142 F.R.D. 55 (1992)
- *FDIC v. Suna Assocs.*, 80 F.3d 681 (2d. Cir. 1996)
- *J. F. Barrett & Sons, Inc. v. Rosenshein*, 23 Conn. App. 817 (1990)
- *Hedberg v. Pantepec Int'l*, 35 Conn. App. 19 (1994)
- *Huff v. West Haven Board of Education, et al*, 1998 WL 386167 (D. Conn. 1998)
- *Kornatowski v. Wallingford Police Dep't*, 1993 U.S. Dist. LEXIS 10695 (D. Conn. July 26, 1993)
- *Meyers v. Arcudi*, 947 F. Supp. 581 (D. Conn. 1996)
- *Meyers v. Arcudi*, 915 F. Supp. 522 (D. Conn. 1996)
- *Mrs. B. v. Milford Bd. Of Educ*, 103 F.3d 1114 (2d Cir. 1997)
- *Mr. & Mrs. B. ex rel. W.B. v. Weston Bd. of Educ.*, 34 F. Supp. 2d 777 (D. Conn. 1999)
- *Smart SMR of New York Inc. d/b/a v. The Zoning Commission of the Town of Stratford*, 9 F.Supp. 2d 143 (1998)
- *Smart SMR of New York, Inc. d/b/a v. The Zoning Commission of the Town of Stratford*, 995 F.Supp. 52 (1998)
- *Smith v. Planning & Zoning Bd.*, 3 Conn. App. 550 (1985)
- *Smith v. Planning & Zoning Bd.*, 203 Conn. 317 (1987)
- *Town of Monroe, et al v. Renz, et al.*, 46 Conn. App. 5, 698 A.2d 328 (1997)
- *Town of Stratford v. International Ass'n of Firefighters, Local 998*, 48 Conn. App. (1998)

- *Town of Stratford v. International Ass'n of Firefighters, Local 998*, 248 Conn. 108 (1999)
- *Howley v. Town of Stratford*, 87 F. Supp. 2d 97 (D. Conn. 1999)
- *Omnipoint Communications, Inc. v. Planning & Zoning Commission of the Town of Wallingford*, 91 F.Supp.2d. 497 (2000)
- *Howley v. Town of Stratford*, 217 F.3d 141 (2d Cir. 2000)
- *Lillbask v. Sergi*, 117 F. Supp. 2d 182 (D. Conn. 2000)
- *Lillbask ex rel. Mauclaire v. Sergi*, 193 F. Supp. 2d 503 (D. Conn. 2002)
- *Lillbask ex rel. Mauclaire v. Conn. Dep't of Educ.*, 397 F.3d 77 (2d. Cir. 2005)
- *Lillbask v. Conn. Dep't of Educ.*, 2006 U.S. Dist. LEXIS 24263 (D. Conn. Mar. 17, 2006)
- *Harbor Pointe, LLC v. Harbour Landing Condo. Ass'n*, 300 Conn. 254 (2011)
- *J.E. Robert Co. v. Signature Props., LLC*, 309 Conn. 307 (2013)
- *Waterview Site Servs. v. Pay Day, Inc.*, 125 Conn. App. 561 (2010)
- *Burke v. Miron*, 2010 U.S. Dist. LEXIS 26815 (D. Conn. Mar. 22, 2010)
- *A.E. v. Westport Bd. Of Educ.*, 463 F. Supp. 2d 208 (D. Conn. 2006)
- *Davidson v. Tesla*, 2008 U.S. Dist. LEXIS 10529 (D. Conn. Feb. 12, 2008)
- *DeFelice v. Warner*, 511 F. Supp. 2d 241 (D. Conn. 2007)
- *Perkowski v. Stratford Bd. Of Educ.*, 455 F. Supp. 2d 91 (D. Conn. 2006)
- *Pulaski v. Stratford Bd. Of Educ.*, 2006 U.S. Dist. LEXIS 56735 (D. Conn. Aug. 15, 2006)
- *Vic's Super Serv. v. City of Derby*, 2006 U.S. Dist. LEXIS 60381 (D. Conn. Aug. 24, 2006)
- *Drazen v. Town of Stratford*, 2013 U.S. Dist. LEXIS 113870 (D. Conn. Aug. 13, 2013)
- *Drazen v. Town of Stratford*, 2013 U.S. Dist. LEXIS 47908 (D. Conn. Mar. 28, 2013)
- *Gugliotti v. Miron*, 2010 U.S. Dist. LEXIS 77305 (D. Conn. July 30, 2010)
- *Guizan v. Solomon*, 2010 U.S. Dist. LEXIS 103592 (D. Conn. Sept. 30, 2010)
- *Guizan v. Town of Easton (In re Estate of Guizan)*, 2012 U.S. Dist. LEXIS 123727 (D. Conn. Aug. 29, 2012)
- *Popow v. Town of Stratford*, 2010 U.S. Dist. LEXIS 12472 (D. Conn. Feb. 12, 2010)
- *Rossi v. W. Haven Bd. Of Educ.*, 359 F. Supp. 2d 178 (D. Conn. 2005)
- *Rossi v. W. Haven Bd. Of Educ.*, 2005 U.S. Dist. LEXIS 6086 (D. Conn. Apr. 8, 2005)
- *Bd. Of Educ. v. Tavares Pediatric Ctr.*, 276 Conn. 544 (2006)
- *Gaynor v. Payne*, 261 Conn. 585 (2002)
- *Town of Stratford v. State Bd. Of Mediation & Arbitration*, 239 Conn. 32 (1996)
- *In re Tribune Co. Fraudulent Conveyance Litig.*, 831 F. Supp. 2d 1371 (2011)
- *Mr. L. v. Sloan*, 449 F.3d 405 (2d. Cir. 2006)
- *Anzalone v. O'Connell*, 51 Fed. Appx. 75 (2d. Cir. 2002)
- *Colombo v. O'Connell*, 2001 U.S. Dist. LEXIS 22081 (D. Conn. Dec. 27, 2001)
- *Cowras v. Hard Copy*, 56 F. Supp. 2d 207 (D. Conn. 1999)
- *Cowras v. Hard Copy*, 1998 U.S. Dist. LEXIS 22269 (D. Conn. May 19, 1998)
- *Garamella v. City of Bridgeport*, 63 F. Supp. 2d 198 (D. Conn.1999)
- *In re Galaxy Assoc.*, 118 B. R. 8 (1990)
- *Langer et al. v. Town of Stratford et al.*, docket 3:01-CV-897 (D. Conn. 2001)
- *Langer et al. v. Town of Stratford et al.*, docket 02-7100 (2d. Cir. 2002)
- *J.S. v. Norwalk Bd. Of Educ.*, 1999 U.S. Dist. LEXIS 16131 (D. Conn. Aug. 26, 1999)
- *Mulligan v. Loschiavo*, 173 Fed. Appx. 26 (2d. Cir. 2006)
- *Schirillo v. Town of Stratford*, 2005 U.S. Dist. LEXIS 20175 (D. Conn. Sept. 9, 2005)
- *Silberberg v. Lynberg*, 186 F. Supp. 2d 157 (D. Conn. 2002)
- *Walpole Woodworkers v. Atlas Fencing*, 218 F. Supp. 2d 247 (D. Conn. 2002)
- *Balogh v. City of Shelton*, 1999 U.S. App. LEXIS 10216 (2d. Cir. Jan. 13, 1999)
- *Ortiz et al. v. Stratford et al.*, docket 3:07-CV-1144 (D. Conn. 2008)
- *Murvin v. Jennings et al.*, docket 3:00-CV-2222 (D. Conn. 2006)

REPRESENTATIVE JURY VERDICTS

- *Farrar v. Town of Stratford et al.*, docket 3:96-CV-1908 (D. Conn. 1996) (Defendant's Verdict)
- *Butler v. Soto et al.*, docket 3:94-CV-1216 (D. Conn. 1997) (Defendant's Verdict)
- *Bloom v. Town of Stratford et al.*, docket 3:05-CV-00217 (D. Conn. Jan. 19, 2007) (Defendant's Verdict)
- *Stallworth et al. v. Town of Stratford et al.*, docket 3:09-CV-00863 (D. Conn. Dec. 5, 2012) (Defendant's Verdict)

CHRISTINE A. SULLIVAN, ESQ.

EDUCATION

UNIVERSITY OF CONNECTICUT, NEAG SCHOOL OF EDUCATION, PhD
Educational Psychology, 2015; Graduate Certificates in Schoolwide Positive Behavior
Support, 2011 and Health Professions Education, 2013

UNIVERSITY OF CONNECTICUT SCHOOL OF LAW, J.D., 1988

COLLEGE OF THE HOLY CROSS, B.A., 1984

BAR ADMISSIONS

Connecticut

PROFESSIONAL EXPERIENCE

Berchem Moses PC, Milford CT

Senior Partner, Education Law Department, 2016 – Present

- Representation of school districts in special education due process hearings before hearing officers appointed by the State Department of Education.
- Representation of school districts before State and Federal administrative bodies such as the Freedom of Information Commission, the complaint process of the Connecticut State Department of Education, and the United States Department of Education Office for Civil Rights.
- Advice and counsel to school districts on matters of policy, development of board policies and procedures, and in-service training of school district staff on general and special education matters including the Individuals with Disabilities Education Act (IDEA), Section 504, the Family Educational Rights and Privacy Act (FERPA), Freedom of Information Act (FOIA) requests, records retention, student and staff First Amendment rights, equity and student discipline, residency requirements, and privacy rights.

Duffy & Fasano Attorneys at Law, Woodbury, CT

Of Counsel, 2009-2015

Part Time Associate Attorney, 2007-2009

Partner, 1993-2007

Associate Attorney, 1988-1993

- Litigation attorney in four-person general practice law firm
- Substantial experience in all aspects of civil litigation from case intake, client interview, discovery, to final disposition in jury and bench trials
- Responsible for development of and management of all workers compensation claims in office
- Researched and drafted legal memoranda and pleadings in various areas of civil litigation
- Conducted real estate closings for clients and represented closing bank
- Represented claimants in social security disability matters through all levels of appeal

University of Connecticut Health Center, A.J. Pappanikou Center for Excellence in Developmental Disabilities, Education, Research and Service (UCEDD)

Director of Education and Training, 2015

Graduate Assistant, 2009-2014

Special Research Assistant, 2009

Leadership Education in Neurodevelopmental and Related Disabilities, Parent Faculty, 2009
Fellow, 2010-2011

- Responsibility for all training, including both preservice and community education activities including coordination of the Public Health Certificate in Interdisciplinary Disability Studies Program and the Undergraduate Concentration in Interdisciplinary Disability Studies.
- Developed curriculum and currently instructor of record in online graduate certificate disability studies program
- Assisted in the development of a comprehensive training manual promoting the leadership and advocacy skills of parents and others in all aspects of the lives of individuals with disabilities
- Guest lecturer at University of Connecticut, Saint Joseph University, and for the LEND program
- Represented UCEDD on the CT Council on Developmental Disabilities

PRESENTATIONS

- Sullivan, C.A. & Bruder, M. (2014, November). *A Competency Based Model of Training for Special Education Paraeducators*, Poster presented at the Association of University Centers on Disabilities Annual Conference, Washington, D.C.
- Sullivan, C.A. (2013, November). *Differentiation*. Connecticut Down Syndrome Congress Conference, Danbury, CT

- Various presentations on topics related to special education at Berchem Moses PC Annual Roundtables 2016 – present
- Provided trainings on topics related to special education for various public school districts
- Sullivan, C.A. (2021, March). Connecticut Special Education Law Overview, Presented virtually for the National Business Institute

PUBLICATIONS

- Sullivan, C.A. (2015). Examining Parents' Perceptions of the Individualized Education Program Meeting. Doctoral Dissertation, University of Connecticut, Storrs, CT (Paper 722)

AWARDS

- Lisa Pappanikou Glidden Scholarship, 2011

PROFESSIONAL AFFILIATIONS AND SERVICE ACTIVITIES

Connecticut Bar Association

American Bar Association

Council for Exceptional Children; Division for Early Childhood

American Association on Intellectual and Developmental Disabilities

National Association for the Education of Young Children

Association for Supervision and Curriculum Development

DIRECTORSHIPS

St. Mary's Health System, Waterbury, CT, 1998-2020

Prior Member of Finance Committee and Chair of Executive Compensation Committee

CAROLYN MAZANEC DUGAS, ESQ.

EDUCATION

TEMPLE UNIVERSITY SCHOOL OF LAW, J.D., 1987

Honors: Regional Champion Mock Trial Team, Philadelphia Trial Lawyer Association Award

TEMPLE UNIVERSITY, B.A., 1984, Magna Cum Laude

BAR ADMISSIONS

Connecticut

PROFESSIONAL EXPERIENCE

- Represents public school districts throughout Connecticut in all areas of education law ranging from first amendment issues, student confidentiality, school residency and transportation matters with an emphasis on student matters including student discipline.
- Reviews, revises and drafts board of education policy and regulations; reviews and revises school handbooks to ensure legal compliance.
- Conducts legal research and drafting of motions, briefs, and memoranda of law related to a variety of special and regular education issues.
- Develops and presents training seminars for teacher candidates, teachers and administrators on topics such as an overview of education law, anti-bullying legislation, and creating positive school cultures, new and pending legislation and initiatives, and special education.
- Advises clients in all areas of education law including special education law.
- Represents school administration at student expulsion and residency hearings, overseeing the investigation stage, and witness preparation through to hearing; conducts Title IX investigations for school districts and oversees response by districts to OCR complaints.
- Provides regular updates on statutory changes and legal developments to clients to ensure compliance via direct representation as well as firm education law blog articles.

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

University of Bridgeport, Former Adjunct Professor (education law classes)
Connecticut Association of Boards of Education (CABE), School Board Attorneys Council
National School Board Association, Council of School Attorneys (COSA)
Connecticut Bar Association
Kids Count, Milford, CT, Former Board Member
America's Promise, Milford, CT, Former Board Member

PAULA N. ANTHONY, ESQ.

EDUCATION

VILLANOVA UNIVERSITY SCHOOL OF LAW, J.D., 1989

PACE UNIVERSITY, B.A, 1986, Magna Cum Laude

BAR ADMISSIONS

Connecticut, New York, U.S. District Court District of Connecticut

PROFESSIONAL EXPERIENCE

Berchem Moses PC, Senior Counsel, 2016 - present

- Represent employers in collective bargaining, grievance arbitration and prohibited practices complaints, unemployment appeals, CHRO complaints, employment discrimination litigation and employee termination cases before State and Federal courts and administrative agencies.
- Extensive experience conducting workplace investigations involving employee misconduct, violation of workplace policies, and discrimination and/or harassment complaints.
- Advise private and public sector employers on a wide variety of personnel and employment matters, including interpretation of collective bargaining agreements, pension and benefits issues, disciplinary matters, administrative investigations and separation agreements.
- Regular presenter on labor and employment topics to various professional groups and employers.

Office of Corporation Counsel, City of Waterbury, CT, Assistant Corporation Counsel, 2006 - 2016

- Managed full caseload of labor and employment matters, as well as land use and zoning issues involving the city.
- Successfully defended the city in numerous unemployment appeals, CHRO complaints, grievance arbitrations, employment discrimination litigation and employee termination cases.
- Represented management in employee grievances and prohibited practices claims before State Board of Mediation and Arbitration and State Board of Labor Relations.

- Obtained dismissals in favor of land use boards and commissions in numerous zoning appeals.
- Managed all personal injury lawsuits against the city and its employees and oversee organizational workflow to ensure compliance with organizational and legal standards and minimize financial exposure and cost to the city.
- Worked closely with the city's human resources and education personnel departments on employee issues, including interpretation of collective bargaining agreements, pension and benefits issues, disciplinary matters, administrative investigations and separation agreements.
- Developed, implement and enforce departmental operational and personnel policies and procedures.
- Assisted Corporation Counsel as legal advisor for the city, including all boards, commissions and departments; acted in absence of Corporation Counsel.
- Chaired weekly staff meetings.
- Supervised and directed all attorneys and support staff.
- Handled intradepartmental personnel matters in conjunction with human resources department, including preparation and review of performance evaluations for attorneys and support staff, pre-employment interviews and disciplinary issues.
- Mentored high school, college and law students as part of department's internship program.

Office of Corporation Counsel, City of Waterbury, CT, Staff Attorney, 1999 - 2006

- Provided legal assistance to all boards, commissions and departments as assigned, with emphasis on general litigation, land use and zoning, pension and benefits and labor and employment matters.
- Successfully defended Retirement Board in numerous appeals challenging disability retirement pension awards.
- Conducted trial and appellate cases in state courts and before administrative agencies.
- Developed programs of recovery for damage to city property and reimbursement of workers' compensation liens.

CAREER HIGHLIGHTS

- Successfully defended against Union's Motion to Vacate arbitration award resulting in savings to Board of Education in excess of \$2M/year in health care costs.

- Prevailed on Motion to Vacate arbitration award overturning termination of high school coach.
- Second chaired successful appeal of pension offset case to State Supreme Court, resulting in annual savings of \$900K for Waterbury, CT's pension fund.
- Recovered in excess of \$250K on employee theft claim.
- Successfully defended Retirement Board decision awarding police retiree disability pension in amount equal to service pension before Connecticut Supreme Court in case of first impression.
- Successfully defended Board of Education in defamation and retaliation claim by former employee.
- Reduced payments on settlements and verdicts by \$2.3M in 2-year period and helped reduce outside counsel fees by \$1.1M from previous four years as part of litigation team.
- Successfully defended Zoning Commission in federal \$5M inverse condemnation case.
- Prevailed on motions for summary judgment in numerous federal wrongful termination and retaliation claims by former employees.
- Successfully represented Superintendent of Schools in termination of school administrator before tripartite arbitration panel.
- Negotiated favorable takeover agreement with surety, resulting in successful completion of multi-million-dollar municipal capital improvement project.
- Obtained dismissal of breach of contract claim by former teacher claiming entitlement of pension benefits, saving the city's pension fund in excess of \$300K.
- Obtained injunctive and declaratory relief resulting in removal of party arbitrator from interest arbitration panel upon showing of improper bias.

PROFESSIONAL AFFILIATIONS

- Connecticut Bar Association; Past Chair, Labor and Employment Section; Member, Women in Law Section
- New York Bar Association; Member, Labor and Employment Section
- American Bar Association; Member, Labor and Employment Section
- Milford Bar Association; Member
- Connecticut Labor and Employment Women; Member

COMMUNITY LEADERSHIP

- Pace University, New York, NY; Member, Women in Business Alumnae Council
- Greater Waterbury YMCA; Former Member, Risk Management Committee
- Shelton Historical Society; Vice President and Current Member; Board of Directors; Restoration Committee Chair

REBECCA GOLDBERG, ESQ.

EDUCATION

DUKE UNIVERSITY SCHOOL OF LAW, J.D., 2011, Cum Laude

BRANDEIS UNIVERSITY, B.A., 2006, Magna Cum Laude

BAR ADMISSIONS

Connecticut, U.S. District Court for the District of Connecticut

PROFESSIONAL EXPERIENCE

Berchem Moses PC, Milford CT
Associate Attorney

2014 - present

- Handles labor and employment matters in state and federal courts and administrative agencies.
- Experienced in litigation, discovery, trial preparation and settlement strategies.
- Defends clients against discrimination charges; drafts substantive motions, position statements, releases, restrictive covenants and employee handbooks.
- Prepares seminars and webinars for management on various topics, including union avoidance, wage and hour law, and discrimination and harassment.
- Represents multiple boards of education in teacher termination proceedings.
- Advises small to large businesses with everyday human resources questions and concerns, providing clients with cost-effective ways to avoid litigation exposure.
- Provides training to employers on a variety of legal matters, including state-mandated sexual harassment training.

SELECTED ACHIEVEMENTS

- Obtained a dismissal of an employment discrimination lawsuit against a nursing home at the earliest stages of litigation, avoiding legal fees and potential liability for the client.
- Successfully represented a housing authority in an unemployment hearing, overturning an initial determination in favor of the employee.
- Secured numerous dismissals of discrimination charges at case assessment review, the earliest stage of the CHRO process, enabling clients to avoid investigations and limit time and resource expenditures.

PUBLISHED WORKS

- Associate Editor, Employment Discrimination Law, BNA Books, 4th Edition, 2012
- Contributing Editor, The Developing Labor Law, BNA Books, 6th Edition

HONORS AND AWARDS

- Labor and Employment Law Award - Duke University School of Law
- Family Law Award - Duke University School of Law
- Dean's Scholar - Brandeis University

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

Connecticut Bar Association, Labor and Employment Executive Committee, 2015 - Present

CHRISTOPHER M. HODGSON, ESQ.

EDUCATION

UNIVERSITY OF RICHMOND, THE T.C. WILLIAMS SCHOOL OF LAW, J.D., 1985

UNIVERSITY OF VERMONT, B.A., 1982

BAR ADMISSIONS

Connecticut, U.S. District Court District of Connecticut, U.S. Court of Appeals 2nd Circuit

PROFESSIONAL EXPERIENCE

Berchem Moses PC, Senior Partner, January 2015 to present

Durant, Nichols, Houston, Hodgson & Cortese-Costa, P.C., 1990 to 2014

Lynch, Traub, Keefe & Errante, P.C., 1985 to 1990

- Senior level attorney representing numerous private and public sector employers in collective bargaining and labor relations matters including negotiating collective bargaining agreements, presenting municipal and Board of Education interest arbitration cases, and defending grievance arbitration claims.
- Advised employers regarding all laws applicable to the workplace.
- Represented management in a wide spectrum of labor and employment litigation in state and federal courts.
- Defended hundreds of discriminations claims before the Connecticut Commission on Human Rights and Opportunities, and has significant experience before the National Labor Relations Board.
- Argued cases before Connecticut's Supreme and Appellate Courts.

AWARDS AND RECOGNITION

Martindale-Hubbell AV Preeminent rated attorney

U.S. News & World Report's The Best Lawyers in America since 2010

New England Super Lawyers since 2008

Connecticut Super Lawyers since 2007 for Labor & Employment Law

COMMUNITY SERVICE

Past President of Choate Rosemary Hall Alumni Association

Choate Rosemary Hall Board of Trustees

Bridgeport Chamber of Commerce Executive Committee

The Barnum Museum Board of Directors

Past President of Yale Youth Hockey Association

ALFRED P. BRUNO, ESQ.

EDUCATION

QUINNIPIAC UNIVERSITY SCHOOL OF LAW, Hamden, CT, J.D., 1997

Honors and Activities: Moot Court Honor Society, National Family Law Moot Court Competition Semi-Finalist, Distinguished Academic Achievement Award for Trial Practice, Outstanding Legal Scholarship Award, Service to the Community Award

BATES COLLEGE, Lewiston, ME, B.A., 1992

Bates College President's Advisory Committee

BAR ADMISSIONS

Connecticut, 1997

U.S. District Court District of Connecticut

PROFESSIONAL EXPERIENCE

Berchem Moses PC, Senior Counsel, Litigation Department, 2016 - present

- Counseling and representation of public and private entities in all aspects of litigation
- Defense of governmental entities, including their elected officials and employees, insurance carriers, third-party administrators and self-insureds
- Appearances before various Connecticut state and federal courts, as well as administrative agencies of the State

State Education Resource Center (SERC), General Counsel, 2005 to 2016

AFFILIATIONS AND AWARDS

Connecticut Bar Association, Member

American Bar Association, Member

Town of Seymour Board of Selectmen, 2011 - present

Seymour Soccer Association, President, 2006 - 2017

Bates College "Alumni in Admission" Volunteer, 1995 - present

Seymour Board of Education, John J. Gallagher Memorial Athletic Award

EXECUTED
ELECTRONIC
ORIGINAL

**AGREEMENT
BY AND BETWEEN
THE NEW HAVEN BOARD OF EDUCATION
AND
BERCHEM, MOSES, P.C.
FOR
LEGAL SERVICES**

A20-0898

PART I

This Agreement, consisting of Parts I and II, effective the date signed herein, by and between the Board of Education of the City of New Haven (hereinafter referred to as the "Board"), and Berchem, Moses, PC with offices at 75 Broad Street Milford, Connecticut 06460 (hereinafter referred to as the "Contractor").

WITNESSETH THAT:

WHEREAS, the Board has determined that it needs the services of a law firm to provide legal services to the Board in such areas as general legal advice, leases/contracts, pupil personnel, expulsions and special education; and

WHEREAS, the Contractor submitted its qualifications; and

WHEREAS, the Board has selected the Contractor and the Contractor has agreed to perform the services for the terms and conditions set forth herein; and

WHEREAS, funds for this Agreement are available from Account 190-47700-56696 pursuant Purchase Order No. 91331624-000 FY 2021.

NOW, THEREFORE, the Board and the Contractor hereby agree as follows:

SECTION 1: ENGAGEMENT

101. The Board hereby engages the Contractor and the Contractor hereby agrees to perform the services set forth herein in accordance with the terms and conditions and for the consideration set forth herein.

102. The person in charge of administering the services described under this Agreement on behalf of the Board shall be *Michael J. Pinto* or such other person as they shall designate in writing.

103. The person responsible for the services to be performed by the Contractor shall be *Michelle Laubin, Esquire*, or such other qualified person as is designated in writing by the Contractor and accepted by the Board.

104. The Contractor shall not subcontract any of the professional services to be performed by it under this Agreement.

105. Where the Contractor requires the use of a State Marshal to serve a party in New Haven County, the Contractor shall only utilize a marshal from the "Approved Marshal list" provided by the City.

SECTION 2: SCOPE OF SERVICES

201. The Contractor shall perform the services set forth under this Agreement in a satisfactory manner, as reasonably determined by the Board. The Contractor shall make such revisions or modifications to its work, at its own cost and expense, as may be required by the Board; Provided, However, the Contractor shall not be required to make revisions at its sole cost and expense where the revisions are based upon considerations outside the scope of services initially given to the Contractor.

202. In performing the services required under this Agreement, the Contractor shall consult with the Corporation Counsel, and shall meet, as appropriate, with other Board or City of New Haven employees or officials and with other persons or entities, as necessary, including State and Federal officials and/or neighborhood groups or organizations.

203. The services to be performed by the Contractor shall consist of providing general legal advice on a variety of matters, as noted in Exhibit A, attached hereto and incorporated herein by reference. The total value of the agreement, as set forth in Section 501 shall not exceed Eighty Thousand Dollars and Zero Cents (\$80,000.00).

205. Where work encompassed under Section 2 will extend past the termination date of this Agreement, within 30 days of the expiration of the Agreement, the Contractor shall furnish to the Board a written projection of both future costs and time required in order to complete the work encompassed under Section 2. There shall be no monetary charge to the Board for the preparation of such written projection.

206. The Contractor shall comply with the provisions of the student data privacy agreement attached hereto as Exhibit B, in accordance with State law, and shall comply with all federal and State laws regarding the confidentiality of student records and student data.

SECTION 3: INFORMATION TO BE FURNISHED TO THE CONTRACTOR

301. The Board will provide the Contractor with all documents, data, and other materials in its possession appropriate to the services to be performed hereunder, and will endeavor to secure materials or information from other sources requested by the Contractor for the purpose of carrying out services under this Agreement.

SECTION 4: TIME OF PERFORMANCE

401. The Contractor shall perform the services set forth in Section 2 of this Agreement at such times and in such sequence as may be directed by the Board.

402. This Agreement shall remain in effect until the services required hereunder are completed to the satisfaction of the Board, unless otherwise terminated by the parties hereto, but in any event shall terminate on June 30, 2021.

SECTION 5: COMPENSATION

501. The Board shall compensate the Contractor for satisfactory performance of the services required under Section 2 of this Agreement in an amount not to exceed Eighty Thousand Dollars and Zero Cents (\$80,000.00), dispersed as follows:

1. Two Hundred Seventy-Five Dollars and Zero Cents (\$275.00) per hour, for services provided by Floyd Dugas, Esquire, or another partner of the Contractor.
2. Two Hundred Thirty-Five Dollars and Zero Cents (\$235.00) per hour for services provided by Senior Counsel.
3. One Hundred Ninety-Five Dollars and Zero Cents (\$195.00) per hour for services provided by associates of the Contractor.
4. One Hundred Forty-Five Dollars and Zero Cents (\$145.00) per hour for paralegal assistance.
5. The Board will reimburse the Contractor for the actual invoice cost of out-of-state telephone calls; extraordinary printing, graphics or reproduction costs; and, when requested by the Board, special delivery or courier costs. No other direct costs incurred by the Contractor in performing legal services under this Agreement will be reimbursed by the Board without the Board's express prior written approval.

502. Compensation provided under this Section 5 constitutes full and complete payment for all costs assumed by the Contractor in performing this Agreement including but not limited to salaries; on-line research such as Lexis, WestLaw, Case Base, etc.; consultant fees; costs of materials and supplies; printing and reproduction; meetings, consultations, and presentations; in-state travel expenses; postage; telephone; clerical expenses; and all similar expenses. No direct costs shall be reimbursed by the Board other than as provided in Section 501.

503. Payments to the Contractor under this Agreement by the Board are conditioned upon on approval of itemized Statements, with attached invoices, CERTIFIED by the Contractor and submitted not more often than once a month. Each Statement shall itemize each function performed, the time spent on each function, and the fee charged for each function, based upon the fee amounts set forth in Sections 501. The original of each such Statement shall be sent to the New Haven Board of Education, or to such other person or entity as may be designated by the Board, within thirty (30) days of the conclusion of the billing month. Statements submitted more than thirty (30) days after the conclusion of the billing month shall not be honored for payment. In addition, the Board may, prior to making any payment under this Agreement, require the Contractor to submit to it such additional information with respect to the Contractor's costs in connection with work performed under this Agreement as it deems necessary. The Contractor shall comply with "billing Procedure for City of New Haven Contractors" attached hereto and incorporated herein by reference. Where "Billing Procedure" conflicts with Part 1, Part 1 shall control.

504. No contract for employment is intended or implemented by this Agreement and no fringe benefits will be paid to the Contractor hereunder. The Contractor's relationship to the Board is that of an independent contractor.

SECTION 6: INSURANCE

601. The Contractor will carry malpractice or errors and omissions insurance with minimum coverage limits of One Million Dollars and No Cents (\$1,000,000.00), to cover the work performed under this Agreement. The Contractor is responsible for the payment of all premiums. Upon the signing of this Agreement, the Contractor shall provide a certificate of insurance evidencing said insurance. Upon request, the Contractor will promptly provide the Board with a copy of the insurance policy. It is understood that the Contractor shall not change the terms and conditions of such insurance policy except upon the prior written approval of the Board, which approval shall not be unreasonably withheld.

602. The Contractor shall indemnify, defend and save harmless the City and its officers, agents, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from the Contractor's negligence in the performance of services set forth under this Agreement.

603. Intentionally left blank.

SECTION 7: TERMS AND CONDITIONS

701. This Agreement is subject to and incorporates the provisions attached hereto as City of New Haven Contract for Professional or Technical Services Part II, Terms and Conditions. In the event any provision of said Exhibit A or Part II conflicts with any provision of this Part I of this Agreement, Part I shall be controlling.

702. This Agreement, its terms and conditions and any claims arising therefrom, shall be governed by Connecticut law. The Contractor shall comply with all applicable laws, ordinances, and codes of the State of Connecticut and the City of New Haven.

703. The parties agree that they waive a trial by jury as to any and all claims, causes of action or disputes arising out of this Agreement or services to be provided pursuant to this Agreement. Notwithstanding any such claim, dispute, or legal action, the Contractor shall continue to perform services under this Agreement in a timely manner, unless otherwise directed by the Board.

704. The Board and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

705. This Agreement incorporates all the understandings of the parties hereto as to the matters contained herein and supersedes any and all agreements reached by the parties prior to the execution of this Agreement, whether oral or written, as to such matters.

706. If any provision of this Agreement is held invalid, the balance of the provisions of this Agreement shall not be affected thereby if the balance of the provisions of this Agreement would then continue to conform to the requirements of applicable laws.

707. Any waiver of the terms and conditions of this Agreement by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Agreement.

708. The Board may, from time to time, request changes in the scope of services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Board and the Contractor, shall be incorporated in written amendments executed by both parties to this Agreement.

709. References herein in the masculine gender shall also be construed to apply to the feminine gender.

710. Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the Board or the Contractor, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

CONTRACTOR: Michelle C. Laubin, Esq.
Berchem, Moses, P.C.
75 Broad Street
Milford, Connecticut 06460

BOARD: Board of Education
Chief Operating Officer
54 Meadow Street
New Haven, Connecticut 06519

IN WITNESS WHEREOF, the parties have executed one (1) counterpart of this Agreement Number A20-0898 as of the day and year first above written.

CONTRACTOR:

CITY:

BERCHEM, MOSES, P.C.

NEW HAVEN BOARD OF EDUCATION

BY: DocuSigned by:
Michelle C. Laubin, Attorney
AD378A50F02A477...
Michelle C. Laubin, Esq.
Duly Authorized

BY: DocuSigned by:
Yesenia Rivera, President, BOE
2D9B2D65P08C4AB...
Yesenia Rivera
President

Dated: 12/23/2020 | 10:57 AM EST

Dated: 12/23/2020 | 4:54 PM EST

Approved as to Form and Correctness:

DocuSigned by:
Elias A. Alexiades
4625C470AB51410...
Elias A. Alexiades
Assistant Corporation Counsel

Dated: 12/23/2020 | 12:53 PM EST

CITY OF NEW HAVEN
CONTRACT FOR PROFESSIONAL OR TECHNICAL SERVICES
PART II - TERMS AND CONDITIONS

1. Personnel. (a) The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

(b) All the services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State or local law to perform such services.

(c) No person who is serving a sentence in a penal or correctional institution shall be employed on work under this Agreement. The foregoing sentence shall not be interpreted to interfere with the Contractor's compliance with the City's Ban the Box requirements.

2. Anti-Kickback Rules. Salaries of architects, draftsmen, technical engineers, and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deductions or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934, as now codified in 18 U.S.C. § 874 and 40 U.S.C. § 3145. The Contractor shall comply with applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations or exemptions from the requirements thereof.

3. Withholding of Salaries. If, in the performance of this Agreement, there is any underpayment of salaries by the Contractor or by any subcontractor thereunder, the City shall withhold from the Contractor out of payments due to him an amount sufficient to pay to employees underpaid the difference between the salaries required hereby to be paid and the salary actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the City for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

4. Claims and Disputes Pertaining to Salary Rates. Claims and disputes pertaining to salary rates or to classifications of architects, draftsmen, technical engineers, and technicians performing work under this Agreement shall be promptly reported in writing by the Contractor to the City, and the City's decision regarding such claims and disputes shall be final. Particularly with respect to this Section and Section 5 above, the City reserves the right to inspect Contractor's records with respect to this

Agreement and specifically, without limiting the generality of the foregoing, payroll and employee records with respect to the work performed pursuant to this Agreement.

5. Equal Employment Opportunity.

A. During the performance of this Agreement, the Contractor agrees as follows:

- i) To comply with all provisions of Executive Order 11246 and Executive Order 11375, the Connecticut Fair Employment Practices Act under Conn. Gen. Stat. § 46a-51 et seq., the Equal Opportunities Ordinance of the City under Chapter 12 ½ et seq., the Contract Compliance Ordinance of the City under Article III of Chapter 12 ½, including all standards and regulations which are promulgated by the government authorities who established such acts and requirements, and all standards and regulations are incorporated herein by reference;
- ii) Not to discriminate against any employee or applicant for employment because of race, color, religion, age, sex, physical disability, national origin, or any other State or Federal protected class status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, religion, sex, age, national origin, physical handicap, or any other State or Federal protected class status. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of any or other forms of compensation, and selection for training, including apprenticeship;
- iii) To post, in conspicuous places available to employees and applicants for employment, notice is to be provided by the Contractor setting forth the provisions of this nondiscrimination clause;
- iv) To state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, physical disability, national origin, or any other State or Federal protected class status;

B. And where this contract involves construction, or is a “public contract” as defined in section 12 ½ -19(o) of the City’s Code of General Ordinances, then the contractor additionally agrees:

- i) To send to each labor union or representative of workers with whom the Contractor has a collective bargaining agreement, or other contract or understanding, a notice advising the labor union or worker's

representative of the Contractor's commitments under the equal opportunity clause of the City, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades, who are below the journeyman level, with the Apprentice Training Division of the Connecticut State Labor Department;

- ii) To utilize State of Connecticut Labor Department and City sponsored manpower programs as a source of recruitment and to notify the contract compliance unit and such programs of all job vacancies;
- iii) To take affirmative action to negotiate with qualified minority contractors, women business enterprises and disadvantaged women business enterprises, for any work which may be proposed for subcontracting, or for any additional services, supplies, or work which may be required as a result of this Agreement;
- iv) To cooperate with City departments in implementing required Agreement obligations for increasing the utilization of minority business enterprises, women business enterprises and disadvantaged business enterprises;
- v) To furnish all information and reports required by the contract compliance director pursuant to sections 12 ½-19 through 12 ½-33 of the City's Code of General Ordinances and to permit access to the Contractor's books, records, and accounts by the contracting agency, the contract compliance officer, and the Secretary of Labor for purposes of investigations to ascertain compliance with the program;
- vi) To take such action, with respect to any subcontractor, as the City may direct as a means of enforcing the provisions of sub-paragraphs (1) through (8) herein, including penalties and sanctions for noncompliance, provided however that, in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the City, the City will intervene in such litigation to the extent necessary to protect the interest of the City and to effectuate the City's equal employment opportunity program. In the case of contracts funded directly or indirectly, in whole or in part, under one or more federal assistance programs, the Contractor or the City may ask the United States to enter into such litigation to protect the interest of the United States;
- vii) To file, along with its subcontractors, if any, compliance reports with the City in the form and to the extent prescribed in this Agreement by the contract compliance director of the City. Compliance reports filed at such times as directed shall contain information as to the employment

practices, policies, programs and statistics of the Contractor and its subcontractors, if any;

- viii) To include the provisions of sub-paragraphs (1) through (9) of this equal opportunity clause in every subcontract or purchase order so that said provisions will be binding upon each such subcontractor or vendor;
- ix) That a finding, as hereinafter provided, of a refusal by the Contractor, or subcontractor, to comply with any portion of this program as herein stated and described, may subject the offending party to any or all of the following penalties:
 - (a) Withholding of all future payments under the involved public contract to the Contractor in violation, until it is determined that the Contractor, or subcontractor, is in compliance with the provisions of this Agreement;
 - (b) Refusal of all future bids for any public contract with the City, or any of its departments or divisions, until such time as the Contractor, or subcontractor, is in compliance with the provisions of this Agreement;
 - (c) Cancellation of this Agreement;
 - (d) Recovery of specified monetary penalties;
 - (e) In case of substantial or material violation, or the threat of substantial or material violation of the compliance procedure or as may be provided for by contract, appropriate equitable or legal proceedings may be brought to enforce these provisions against contractors, subcontractors, or other organizations, individuals or groups who directly or indirectly are not in compliance with the policy as herein outlined.

6. Discrimination Because of Certain Labor Matters Related to Construction Contracts. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because it has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

7. Assignability. The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City, provided, however, that claims for money due or to become due the Contractor from the City under this Agreement

may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

8. Interest of City Officials. No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

9. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the above-referenced project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its service hereunder. The Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed.

10. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

11. Audit. The City reserves the right to audit the Contractor's books of account in relation to this Agreement any time during the period of this Agreement or at any time during the twelve-month period immediately following the closing or termination of this Agreement. In the event the City elects to make such an audit, the Contractor shall immediately make available to the City all records pertaining to this Agreement, including, but not limited to, payroll records, bank statements, and canceled checks.

STANDARD BILLING PROCEDURE FOR CITY OF NEW HAVEN **CONTRACTORS**

Staffing:

Each case should be staffed with no more than three individuals: the lead attorney, an associate and a paralegal. Each invoice must contain a timekeeper summary setting forth the total time billed by each timekeeper and their hourly rate. Counsel should delegate work to subordinates wherever possible to achieve efficiency and cost-effectiveness. Activities which are considered clerical or overhead will not be paid. Staffing for trial, as well as deviations from the above standards, must be discussed with and pre-approved by the City with such approval noted on the invoice.

Duplication of effort within the firm must be avoided.

Multi-teaming: All depositions, court appearances, meetings, etc. should be attended by only one member of the defense team. Attendance by more than one member of the defense team must be discussed with and pre-approved by the City with such approval noted on the invoice.

Adequacy of Descriptions:

Descriptions of services provided must be adequately described so that a third-party is able to understand the nature and purpose of the activities performed. Descriptions of services must separately identify the nature of each activity performed, the purpose and the actual time taken to perform such task. Third-party communications should include the name of the persons involved and the general subject matter of the communications.

All time charges should be based upon actual time taken to perform a task and should be billed in .1-hour increments.

Grouping multiple activities under a single time charge greater than one-tenth of an hour ("block billing") must be avoided.

Activities Requiring Consultation with the City, and pre-approval noted on the invoice:

Consultation with the City of New Haven is required before the following activities are undertaken. Invoices should document who was consulted and that approval was obtained for:

- Legal Research exceeding two hours, or
- Motions and briefs exceeding three hours, or
- More than one attendee at trial, hearing, court appearance, arbitration, mediation, deposition, third party conference call, or any similar event
- Rate increases, must have written approval from the City of New Haven attached to your invoice
- Expenses over \$1,000.00

Legal Counsel Business Overhead – Non-billable Fees:

Revised: January 2019

Clerical and/or Administrative Activities:

- Responding to audit results
- Preparing, reviewing and/or following up on firm or vendor invoice
- Reviewing or analyzing conflict
- Attending seminars or continuing education
- Employee courier services, law clerk “runners,” or other personnel (such as managing clerk’s/docketing clerks) who perform functions such as delivering documents, checking court dockets, and filing papers
- Routine scheduling communications confirming depositions, appointments, mediation, etc.
- Search of a file to look for particular documents, reports, etc.
- Non-attorney/non-paralegal staff (e.g., library staff, file clerks, managing clerk’s/docketing clerks, law clerks, summer associates)
- Secretarial work
- Staff overtime
- Word processing
- Arranging travel/accommodations
- Opening or closing files
- Routine organization of files
- Document stamping (e.g., bates stamping)
- Managing/docketing clerk appropriate activities
- Collating
- Binding
- Copying
- Faxing
- Reviewing advance sheets or other publications to stay abreast of the law
- Routine or elementary research, including issues considered to be common knowledge among reasonably experienced counsel in the local jurisdiction (e.g., procedural issues, ethics issues, etc.)
- Time attributable to firm managing factors such as training time, and duplication of other staffing inefficiencies attributable to the departure/unavailability of firm personnel
- Time and/or expenses incurred due to change or departure of law firm resources

Non-billable Fee Activities:

- Digesting (page/line summaries) of depositions other than when trial is imminent (digesting depositions is a paralegal function). A brief post-deposition summary may be prepared by the deposing attorney for the City of New Haven.
- Routine or elementary legal research, including issues considered to be common knowledge among reasonably experienced counsel in the local jurisdiction (e.g. procedural issues).
- Legal research exceeding two hours (per topic), unless approved in advance with the approval noted on the invoice.

- Preparation of motions which exceed three total hours, unless approved in advance with the approval noted on the invoice.
- More than one-tenth (.1) of an hour for reviewing and preparing pre-printed or computer-generated forms, documents, pleadings, notices, subpoenas, etc.
- Individual charges for the same or similar documents sent to multiple parties (e.g. deposition notices)
- Ordering records except that drafting subpoenas is billable.
- Trial preparation when trial is not imminent (90 days before trial is considered imminent)
- Intra-law firm communications (oral or written, including memos to file) that are informational, supervisory, educational, or administrative nature are not billable. If the communication is billable, only the time of the most senior person/drafter is billable. Intra-firm communications with or between paralegal or non-billable firm personnel are not billable.
- Improper staffing assignments, such as task performed by staff at inappropriately high billing rates and levels of experience, including paralegal work performed by attorneys, and junior attorney work performed by senior attorneys
- Previously researched issues except for that portion of the research that updates the work product
- Learning time of a new team member to get up to speed
- Deposition transcript reviews unless purpose for the review is indicated on the invoice
- *Out-of-State* travel time must be itemized separately, including time spent, destination, mileage and purpose of the trip. Travel time is billable at 50% of the approved hourly rate and will be reimbursed for out-of state travel.

Non-billable Disbursements:

- Case management, litigation, computerized support and/or document control systems
- Computerized legal research hardware or software costs
- On-line fees for Westlaw, Lexis or similar computerized charges unless pre-approved in advance
- Overtime and associated expenses – meals, transportation or other charges
- Office supplies
- In-state phone charges, only actual line charges for *out-of-state* long distance will be reimbursed
- Facsimiles, except for actual line charges for outgoing *out-of-state* facsimile charges (flat fees disallowed)
- Postage
- Outside overnight/express/messenger delivery services unless required for a reason not caused by the firm (e.g., the firm's delay in preparing or filing papers is not justification). Justification must appear on the invoice
- Documentation must be provided for expenses over \$50.00.
- Expenses over \$1,000.00 must be pre-approved in advance
- Rent
- Utilities
- Books

- Conference rooms unless pre-approved by the City after consultation
- Publications/periodicals
- Equipment rental unless pre-approved by the City after consultation.
- Seminars, or continuing legal education
- Refreshments during meetings
- Inadequately described or miscellaneous expenses
- Cell phone charges (unless due to an emergency that is described in the invoice)
- Photocopies, *unless extraordinary or approved by the City. If billable, not to exceed \$.10/page (outside vendors included)*

Travel Expenses are reimbursed only in connection with out-of-state travel and if:

- Each expense is separately identified with an amount and date incurred
- Mileage does not exceed the current IRS rate
- Hotel accommodations are moderately priced
- Meal charges are reasonable and a per diem of \$75.00/day applies. (Meals will be reimbursed only in connection with out-of-state travel)
- Taxis or shuttles are used rather than rental cars wherever cost-effective
- Rental cars are intermediate class only, insurance coverage is not charged to the City of New Haven; Airfare is coach (unless flying through three-time zones, then business class is allowed) and, whenever possible, is reserved sufficiently in advance and with an appropriate carrier, so as to secure the lowest rate under reasonable circumstances