

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Case No. 217-2025-CV-00480

Andrew Foley;
Ronald “Chuck” Miles; and
Jane Doe #231

On behalf of themselves and all those similarly situated

v.

The State of New Hampshire;
New Hampshire Governor, Kelly Ayotte, in her official capacity; and
New Hampshire Attorney General, John Formella, in his official capacity

PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Superior Ct. R. 48(b), above-captioned Plaintiffs, on behalf of themselves and all those similarly situated, respectfully move for a preliminary injunction enjoining Defendants from enforcing two recent amendments to the Youth Development Center Claims Administration and Settlement Fund Act, RSA 21-M:11-a (the “Settlement Fund Act” or “Act”), which allow Defendants, at any time and for any reason, to: (a) replace the independent and neutral Settlement Fund Administrator with a political appointee, and (b) overrule decisions of the Administrator.

Factual Background

1. This Court is familiar with the background, which is set forth in detail in Plaintiffs’ Complaint for Declaratory Judgment and Preliminary and Permanent Injunctive Relief (“Complaint”), Emergency Motion for Temporary Restraining Order (“TRO”), and Memorandum of Law in Support of the Emergency Motion for TRO, all of which were filed on June 27, 2025. In short, through two amendments to the Settlement Fund Act that were introduced without discussion or debate as eleventh hour amendments to the biennial budget bill, House Bill 2, the State of New Hampshire fundamentally altered the settlement terms it had previously offered to

the hundreds of victims of abuse at the Youth Development Center (“YDC”) and related State-operated residential facilities for detained and committed youths.¹ The settlement offered by the State was not for a fixed amount of compensation for any single victim, or for the class in the aggregate, but rather was a proposal for a bespoke alternative dispute resolution process that would be conducted by an impartial administrator in a “victim-centered” and “trauma informed” manner.

2. The two challenged amendments to the Settlement Fund Act change the Settlement Fund in material ways, altering the very nature of the process originally offered by the State. The amendment to RSA 21-M:11-a, III moves the Settlement Fund Administrator from the judicial branch to the executive branch, allows the Governor (with the consent of the Executive Council) to remove the Administrator at any time and for any reason (deleting previous language that only permitted removal for “good cause”), and replace the Administrator with a hand-selected executive branch loyalist who would serve “at the pleasure” of the Governor. *See* Comm. of Conf. Report on HB-2, 2025-2871, June 19, 2025, § 437, amending RSA 21-M:11-a, III. The amendment to RSA 21-M:11-a, IX(e) allows the Attorney General, through his designee, to unilaterally reject the Administrator’s decisions as to individual claims, effectively converting the Administrator’s “decisions” into recommendations that can be rejected by the Attorney General for any reason.

3. While the State, acting through its legislature, is generally empowered to change legislative policy, in this case, the State’s revocation of its offered settlement process is too late because hundreds (perhaps as many as 2,000) victims of abuse at YDC have already accepted the State’s offer by filing claims on or before the June 30, 2025, filing deadline, *and*, in reliance on the State’s promises, have suspended their lawsuits in the superior court. As laid out in the Complaint, offer, acceptance, and consideration are easily established for the Plaintiffs, and for all

¹ For simplicity, all State-operated juvenile facilities are referred to as the YDC.

other claimants who filed a claim on or before June 30, 2025, one day before the two challenged amendments became effective. *See* Compl. ¶¶ 88-93; 108-09. A “meeting of the minds” is established by the contractual terms that are set forth in detail in the Settlement Fund Act itself, as effective on June 14, 2024, and in the implementing claims process documents and guidelines (including the claims packet) that were developed by the Attorney General and approved by the Joint Fiscal Committee pursuant to RSA 21-M:11-a, IV(a) (The Act and the implementing claims documents are attached collectively as **Exhibit A**).

4. When Plaintiffs, and the class of claimants they propose to represent, filed claims in accordance with and reliance upon the Settlement Fund Act and the implementing claims process documents (as they existed before July 1, 2025), they indicated their agreement to the terms offered by the State in those documents. In further reliance on the State’s offered process, each claimant in the class suspended or dismissed or deferred filing a civil action in court. Having fulfilled these steps in accordance with the State’s directions, each member of the proposed class vested their contractual rights in the settlement process as it then existed and which the State now seeks to alter in material ways through retroactive amendments that only sprang into effect *after* the last claimant filed their claim. In summary, having successfully lured the Plaintiffs’ class out of court and into the Settlement Fund, the State now seeks to change the rules in material ways.

5. Plaintiffs brought this class action to prevent the Defendants, namely, the Governor and the Attorney General, from implementing or enforcing the two amendments. The two amendments breach the material terms of the agreements each Settlement Fund claimant made with the State and for which each claimant is entitled to specific performance. Similarly, the retroactive amendments “substantially impair” those agreements in violation of the New

Hampshire and United States Constitutions. Finally, those amendments deprive claimants who have not yet obtained final decisions from the Administrator of equal protection under the law.

6. Notwithstanding the plain illegality of the two challenged amendments, this Court did not grant Plaintiffs' TRO motion. While the Court's order denying the TRO did not explain its reasoning, Plaintiffs recognize that a TRO against enforcement of a newly passed law is extraordinary relief that courts are hesitant to grant. Perhaps the Court was not sufficiently persuaded that Plaintiffs were likely to suffer irreparable harm *imminently*. Developments in recent days, however, underscore the imminent risk of irreparable harm to the named Plaintiffs and the class they propose to represent absent injunctive relief.

New Facts Demonstrating Imminent Harm

7. On June 27, 2025, the same day Plaintiffs filed this action, the Governor signed House Bill 2 into law. The amendments challenged by this action took effect on July 1, 2025, the day after the deadline closed to file a claim in the Settlement Fund.

8. As of the date of this filing, Defendants have not yet terminated the current Administrator, former Chief Justice John Broderick. But the Administrator himself has publicly recognized that the amendments have effectively terminated his Supreme Court appointment and that he operates now only to assist in the transition to an executive branch appointee. On June 30, 2025, Administrator Broderick issued a Public Bulletin stating:

The amendment to Section III [of RSA 21-M:11-a] ends my term as a Judicial Branch appointee and begins a new term with an Executive Branch appointee. The amendment to Section IX(e) ends my appointed authority to provide an arbitration decision after a resolution proceeding that is binding solely at the claimant's choice to accept the decision or withdraw from the administrative claims process.

The decision was made by government leadership, not by me, to amend the statute in a manner that ends my post appointed by the supreme court. It is my responsibility to follow the law.

The amendment becomes effective July 1, 2025. Therefore, we are entering a transition period. During this transition period to a new Executive Branch appointee, I am available to serve in some capacity to keep claims processing stable and moving forward as possible. There are open questions about how the transition period will take place. I anticipate that the Executive Branch and Judicial Branch will work toward addressing open questions so that the transition can be as smooth as possible.

June 30, 2025, John T. Broderick, Jr., *Public Bulletin – Letter from Administrator Broderick* (attached as **Exhibit B**).

9. On July 1, 2025, Administrator Broderick amplified his interpretation of the new Settlement Fund amendments in statements that were quoted in a Boston Globe article. Amanda Gokee, *YDC fund administrator warns new N.H. law will remove him, amid concerns of fairness*, Boston Globe, June 30, 2025 (attached as **Exhibit C**). Administrator Broderick told reporters that he would only continue as a transitional Administrator on the condition that he retains final decision-making authority. He explained that he is not willing to be “an integral part of emotional and often gut wrenching confidential hearings where claimants recount abuse only to have my decision rejected by the AG when an abused claimant would have accepted it.” He stated that he is waiting to hear whether the Attorney General will accept his condition. At the present date, no public announcement has been made shedding further light on this situation. Regardless, however, Administrator Broderick clearly does not anticipate remaining in his position for much longer.

10. Prior to the effective date of the two challenged amendments, Administrator Broderick and his team had scheduled resolution proceedings for pending Settlement Fund claimants through the end of July 2025. On July 3, 2025, Jennifer Foley—General Counsel for the YDC Claims Administration & Settlement Fund—notified counsel for Plaintiffs and other interested parties, in a non-public email, that effective July 7, 2025, all resolution proceedings will be paused until August, and that any hearings currently scheduled for July will be rescheduled.

11. Administrator Broderick's public statements coupled with the announcement that all resolution proceedings in July are postponed strongly suggest that Administrator Broderick's days are numbered and that he will either be removed by the Governor, or he will resign because the Attorney General will not agree to defer the exercise of his new-found veto power.

Argument

12. Plaintiffs incorporate by reference the arguments previously made in support of their Emergency Motion for TRO as well as the alleged facts and legal arguments asserted in their Complaint. Plaintiffs also reserve the right to submit additional supplemental briefing in support of this Motion for Preliminary Injunction prior to the hearing on the motion. A summary of Plaintiffs' grounds for a preliminary injunction follows.

A. Plaintiffs are likely to succeed on the merits.

13. Plaintiffs are likely to succeed on the merits of their claims for breach of contract, unconstitutional impairment of contracts, and violation of equal protection. The State made a bargain with the victims of child abuse at the YDC. It offered the victims a "victim-centered, trauma informed" settlement and "arbitration" process. RSA 21-M:11-a, VII(d), IX(c). The Plaintiffs, and each member of the class as defined in the Complaint, ¶ 80, timely filed claims with the Settlement Fund Administrator in accordance with the Act and its implementing claims process documents, thereby accepting the State's offer pursuant to the express terms of the Settlement Fund Act and its implementing documents. *See* RSA 21-M:11-a, VII(d); Exhibit A. Both the claimants and the State received mutual consideration in the form of a settlement and arbitration process that is less time-consuming, burdensome, and costly than litigation. Moreover, the State benefitted from the requirement that all claimants must suspend the pursuit of their civil actions pending Settlement Fund proceedings. *See* RSA 21-M:11-a, VII(e).

14. While it is true that statutory enactments are not *generally* presumed to create contractual rights in the beneficiaries of the law, that presumption can be overcome when the statute evinces the State's intent to create contractual obligations. *Prof'l Fire Fighters of N.H. v. New Hampshire*, 167 N.H. 188, 194 (2014); *Opinion of the Justices (Furlough)*, 135 N.H. 625, 630 (1992) (“[W]hen the language and circumstances evince a legislative intent to create private rights of a contractual nature enforceable against the State, the statute is itself treated as a contract.”) (internal quotation omitted); *see also White v. United States*, 175 Fed. Cl. 226, 237 (Mar. 4, 2025) (holding that September 11th Victim Compensation Fund claimant plausibly alleged the United States' breach of contract, ruling that “although no single document contains an offer and acceptance, [claimant] has plausibly alleged that the statute, regulations, and claim form show the government's intent to contract if he accepts the government's offer”). Here, the statute could not be plainer. *See RSA 21-M:11-a, VII(d)* (“The submission of a claim shall constitute an agreement in writing to submit the claim to arbitration as provided in RSA 542:1.”). Moreover, the New Hampshire Supreme Court has rejected arguments that enforcing the specific performance of settlement agreements improperly constrains future legislatures. *See Avery v. Comm'r N.H. Dep't of Corr.*, 173 N.H. 726, 735 (2020) (“[W]e disagree that the legislature would find that agreements settling lawsuits against the State are likely to impose obligations on the government that would constrain future policy decisions or impair public welfare.”). In this case, the State could not have been clearer in the express terms of the statute that it was offering an alternative dispute resolution process to YDC victims that they could each accept by filing a claim and suspending their lawsuit.

15. The challenged amendments materially breach the contracts formed between the State and the claimants by *immediately* removing the promised independence and neutrality of the

Administrator. *See* RSA 21-M:11-a, I (Administrator shall be “independent” and “neutral”). While Administrator Broderick remains in the position for the time being, even he recognizes that the position has structurally changed to such an extent that he cannot remain in the position for the long term. Under the amendment, regardless of the good faith and intentions of the Administrator, as a matter of structure the Administrator cannot be truly independent and neutral. By being an executive branch employee serving “at the pleasure” of the Governor, the Administrator is under the thumb of the answering party (i.e., the alleged tortfeasor) of every Settlement Fund claim. Appointing a decisionmaker who is a terminable at-will employee of the alleged tortfeasor is also fundamentally at odds with any definition of “arbitration.” *See* RSA 21-M:11-a, VII(d) (submission of a claim constitutes a written agreement to “arbitration” as provided under RSA 542:1). *See* JAMS Comprehensive Arbitration Rules & Procedures Rules 7, 15(c)(ii) & (h) (last accessed Jul. 7, 2025), <https://www.jamsadr.com/rules-comprehensive-arbitration> (requiring that arbitrations, absent an agreement and by default, shall be “conducted by one neutral Arbitrator” and discussing the means by which parties to an arbitration may challenge the appointment of a “Neutral” if she lacks the ability to be “impartial or independent”); JAMS Mass Arbitration Procedures and Guidelines, Procedure 3(b) (last accessed Jul. 7, 2025) (providing the parties to mass arbitrations administered by JAMS with the opportunity to challenge the “impartial[ity] or independent[ce]” of “Neutrals”).

16. These rules reflect one of the quintessential requirements of arbitration, the neutrality of the decisionmaker. Under the Federal Arbitration Act and its New Hampshire analog, RSA chapter 542, one of the very limited grounds for a party to seek to vacate an arbitration award is the “evident partiality,” *see* 9 U.S.C. § 10(a)(2), of the arbitrator. As observed by the New Hampshire Supreme Court, arbitrators, just like judges, are constitutionally required to be “as

impartial as the lot of humanity will admit.” *O’Brien v. Curran*, 106 N.H. 252, 258 (1965) (citing N.H. Const., pt. I, art. 35).

17. The State’s contract breaches are compounded by the second of the two amendments which empowers the Attorney General to veto the Administrator’s decisions. This amendment breaches the State’s promise that the Administrator’s decisions are “final and non-appealable,” not subject to review by any other governmental body or office, RSA 21-M:11-a, IX(e), and that, when a claimant accepts the Administrator’s decision, the decision becomes the “final and binding settlement” of that claimant’s claims against the State. RSA 21-M:11-a, VII(d). Again, the amendment renders the State’s promise of “arbitration” illusory. Unlike an arbitrator, the Administrator is reduced to rendering non-binding recommendations that can be rejected at the whim of the Attorney General regardless of the veracity of the claimant’s testimony and the wisdom of the Administrator’s decision. It similarly renders hollow the promise of a “victim-centered” and “trauma informed” process that still exists, in words only, within the text of the statute. On the contrary, giving the Attorney General the power to take back a favorable decision from a victim who has fully complied with all the requirements of the Settlement Fund process sounds more like a process that is centered only on the State’s financial interest.

18. Enforcement of the amendments would likewise constitute “substantial impairment” of each claimant’s agreement to arbitration with the State in violation of Part 1, Article 23 of the State Constitution and Article I, Section 10 of the United State Constitution. *See, e.g., Tuttle v. N.H. Medical Malpractice Joint Underwriting Assoc.*, 159 N.H. 627, 651 (2010) (retroactive law substantially impairs contract rights where it “chang[es] the very nature of the contracts”). Changing the Settlement Fund process from a “victim-centered, trauma informed” arbitration process administered by an “independent” and “neutral” Administrator, to an advisory

settlement process wholly controlled by one of the parties to the dispute (the alleged tortfeasor) turns the promised process on its head. *See id.* at 649 (“[W]here the right abridged was one that induced the parties to contract in the first place, a court can assume the impairment to be substantial.”). The amended Settlement Fund process does not resemble “arbitration,” and its focus has shifted from a victim-centered process seeking the fair resolution of claims, to a State-centered process seeking the minimization of liability.

19. Because the amendments are not “reasonable and necessary” to serve an “important public purpose,” they cannot pass constitutional muster. *Opinion (Furlough)*, 135 N.H. at 634; *see also Tuttle*, 159 N.H. at 654 (“In cases where the State is itself a party to the contract, heightened review is warranted and the courts generally accord minimal deference to legislative acts affecting such contracts.”). Fiscal imperatives alone are never sufficient justification for the State unilaterally nullifying its own contracts. *Id.*

20. The challenged amendments also violate equal protection guarantees under Par 1, Articles 2 and 12 of the State Constitution and the Fourteenth Amendment of the United States Constitution. Through passage of the amendments, the State has created two classes of Settlement Fund claimants: (1) those who timely filed a claim and received a decision from the impartial Administrator they were promised, and (2) a disfavored class who also timely filed a claim, but whose claim will be decided by the Governor’s hand-picked Administrator and will be subject to review and potential veto by the Attorney General. The disfavored class is deprived of the fair and impartial process the first class of claimants already received. As both classes filed their claims before the amendments became effective on July 1, 2025, there is no substantive difference between them justifying disparate treatment. Because the right to recover for personal injuries is an important substantive right, *see Brannigan v. Usitalo*, 134 N.H. 50, 54 (1991), the State’s

disparate treatment must satisfy intermediate scrutiny. *See Cmty. Res. for Justice, Inc. v. City of Manchester*, 154 N.H. 748, 762 (2007). And as the State cannot prove that the challenged legislation is substantially related to an important governmental objective, the amendments are unconstitutional on this basis as well. *See City of Dover v. Imperial Cas. & Idem. Co.*, 133 N.H. 109, 118 (1990) (“[E]ffect of the public treasury is not, in and of itself, a legitimate justification for depriving injured parties of a remedy.”).

B. Absent an injunction, Plaintiffs will be irreparably harmed.

21. The harm to Plaintiffs and the proposed class is not just imminent, it is already beginning to happen. Upon the law’s effective date, July 1, 2025, the Administrator immediately lost the protection of an appointment that could only be terminated by the Supreme Court for “good cause,” and he was placed directly under the purview of the Governor, who could terminate him at any time for any reason. The Administrator also immediately lost the power to issue final “decisions,” as the Attorney General is now authorized to reject his decisions. Administrator Broderick has correctly observed that such a process is not the fair and impartial process he had been appointed to administer. Accordingly, as a condition of his continued assistance during this “transition period,” he asked the Attorney General to temporarily suspend his new veto powers. But even if the Attorney General were to agree to Administrator Broderick’s proposed condition during the transition, the writing on the wall is clear. Administrator Broderick will soon be replaced with a political appointee answerable directly to the Governor, and the Attorney General will retain his power to review and veto any Administrator decisions not to his liking.

22. Such action will, among other things: (a) immediately breach and unconstitutionally impair contracts between the State and the claimants in the proposed class; (b) permanently destroy the proposed class members’ already fragile trust in authority caused by the

abuse they suffered in state custody, likely prompting Plaintiffs (and many members of the proposed class) to withdraw from the claims process; (c) immediately violate the proposed class members' rights to equal protection under the law; (d) immediately create confusion and chaos in the Administrator's Office, worsening the large backlog of cases currently pending and causing unnecessary delays; (e) in cases where the current Administrator has already heard claims but has not yet issued decisions, needlessly retraumatize child abuse survivors by forcing them to repeat the details of their abuse to a new Administrator; (f) in cases where claimants withdraw from the Settlement Fund due to the State's betrayal in changing the rules, or in cases where the Attorney General rejects the Administrator's decision, cause wasted time and wasted effort (and emotional pain) in having previously complied with the Settlement Fund process and deferred the pursuit of a judicial remedy.

23. Additionally, the Governor's unilateral removal power coupled with the Attorney General's unilateral veto power all but guarantees that the Administrator (whether the current Administrator or a newly appointed one) will artificially depress the amount of his or her awards to minimize the risk of veto by the Attorney General and/or removal by the Governor. It will also result in claimants having to endure the inherently retraumatizing process of a resolution proceeding knowing that, even if the Administrator believes them and provides them with a fair and acceptable award, the Attorney General could rescind their awards at the last step of the process for any reason, including, perhaps, because he has made the cynical calculation that the claimant will likely die before he or she gets a trial, or does not have the mental or emotional strength to withstand the rigors of trial, or will give up his or her pursuit of justice because the process has taken too long and been too painful, or simply because the discouraged claimant has lost hope that justice is possible. Such calculations are wholly opposed to the State's original

promise of a Settlement Fund that would provide justice and compensation for the victims of child abuse in a “victim-centered, trauma informed way.”

C. Plaintiffs have no adequate alternative remedy at law.

24. Due to the permanent and non-monetary nature of these consequences and the unchecked discretion the amendments give Defendants, Plaintiffs have no adequate remedy at law and require court intervention to prevent these immediate, irreparable harms. Under these circumstances, the Court should exercise its discretion to enjoin Defendants and guarantee Plaintiffs the specific performance they are entitled to. *See* RSA 491:8 (providing superior courts with jurisdiction to “enter judgment against the state of New Hampshire founded upon any express or implied contract with the state, including specific performance and other equitable remedies that are not limited to money damages”); *Allen W. Hinkel Dry Goods Co. v. Wichison Indus. Gas Co.*, 64 F.2d 881, 883 (10th Cir. 1933) (“An injunction against the breach of a contract is a negative decree of specific performance. The power and duty of a court of equity to grant such injunction is broader than its power and duty to grant a decree of specific performance, since an injunction to restrain acts in violation of a lawful contract will be granted, even when specific performance would be denied because of the nature of the contract.”).

25. In determining whether damages would provide an adequate remedy at law, “the following circumstances are significant: (a) the difficulty of proving damages with reasonable certainty, (b) the difficulty of procuring a suitable substitute performance by means of money awarded as damages, and (c) the likelihood that an award of damages could not be collected.” Restatement (Second) of Contracts, § 360.

26. When the proposed class members filed their Settlement Fund claims, they were not promised that they would receive compensation in a certain amount or even in a certain range.

Rather, they were promised a fair and impartial arbitration process that would be administered by an “independent” and “neutral” Administrator in a “victim-centered” and “trauma informed” way. *Cf. White*, 175 Fed. Cl. at 237 (“[Claimant] is arguing that he was promised a particular methodology in calculating his award, not a particular amount. And regardless, no particular amount is required to show a mutual intent to contract.”).

27. Given that Plaintiffs and the proposed class will be harmed by the destruction of the process they were promised, untethered to the dollar value of any individual settlement, it is impossible to measure the damages caused by Defendants’ breach with any reasonable certainty. *See Avery*, 173 N.H. at 738 (upholding prisoner’s right to pursue specific performance of the non-monetary terms of a settlement agreement with the Department of Corrections regarding prison conditions because he has “a cognizable interest in having the contract’s promises performed” and in “ensuring that the DOC uphold its end of the bargain”). Similarly, awarding money as damages would not serve as a suitable substitute performance here, where Defendants promised claimants a victim-centered, trauma informed process helmed by a neutral, impartial Administrator. The emotional relief at the prospect of having one’s voice truly heard is what motivated many claimants to engage in the settlement fund process, irrespective of any later monetary award. *See Affidavit of Jane Doe #231 ¶ 12* (“Submitting my settlement fund claim has had a profound impact on my life. Once I trusted the process and disclosed the full details of my abuse in my written submissions, a weight was lifted from my shoulders. There were many details about Coach Mak’s abuse that I have been carrying alone for decades. I thought I would take those details to the grave. I never would have shared the full story of what happened to me if I did not think I would be heard by someone impartial.”). Money is no replacement.

28. Importantly, adequacy is “relative” and “the modern approach is to compare remedies to determine which is more effective in serving the ends of justice. Such a comparison will often lead to the granting of equitable relief. *Doubts should be resolved in favor of the granting of specific performance or injunction.*” Restatement (Second) of Contracts, § 359 cmt. a (emphasis added); *see also Tuttle v. Palmer*, 117 N.H. 477, 478 (1977) (cleaned up) (affirming trial court’s decision that “in order to avoid burdensome future litigation and guarantee plaintiff full relief, specific performance was the only appropriate remedy. . . . the trend has been to give less consideration to the question of the adequacy of damages and to make specific performance less difficult to obtain than it was formerly”).

29. The only adequate remedy for the breach of Plaintiffs’ (and the proposed class members’) contracts is specific performance enforcing the specific settlement and arbitration process that the State agreed to deliver—a process which, in and of itself, is uniquely valuable to claimants. *See Avery*, 173 N.H. at 738; *see also Manchester Dairy Sys. v. Hayward*, 82 N.H. 193 (1926) (in cases surrounding something of “unique and peculiar value, contracts relating thereto, comprising the same element of irreparable damages as exist where land is the subject-matter of the contract, like contracts as to realty, may be specifically enforced”). Indeed, the Settlement Fund Act’s express incorporation of RSA 542, *see* RSA 21-M:11-a, VII(d) (submission of a claim constitutes “agreement in writing to submit the claim to arbitration as provided in RSA 542:1”), establishes that equitable relief enforcing the agreement is *the* appropriate remedy. *See* RSA 542:3 (“The party aggrieved by the alleged failure, neglect, or refusal of another to perform under such a written agreement for arbitration may petition the superior court for an order directing that such arbitration proceed in the manner provided for in such agreement.”).

30. Absent a preliminary injunction, Plaintiffs' remedy of specific performance will be lost. The class members will be forced to either proceed in a doomed process that does not resemble the impartial and "victim-centered" process they were promised or withdraw from the Settlement Fund and accept the loss of time and emotional energy spent pursuing a mirage. The damages that will result are incalculable.

D. The equities weigh in favor of Plaintiffs.

31. The State is behaving in a patently unfair and cruel way toward the claimants. The State offered the Settlement Fund after acknowledging how difficult it is for victims of child abuse to come forward to vindicate their rights. *See* Compl. ¶¶ 30-31, 35, 40. And after the Settlement Fund was initially unsuccessful in attracting claimants, lawyers for the State negotiated improvements to the Settlement Fund with lawyers for most of the YDC plaintiffs, undersigned counsel. *Id.* ¶¶ 37-38. A material term of that negotiation was that the undersigned would publicly support the improved Settlement Fund and would encourage their clients to file claims and stay their litigation in court. *Id.* The State received its bargained-for consideration as the vast majority of eligible claimants (over 90% of undersigned's eligible clients) filed claims in the Settlement Fund and stayed their litigation. *Id.* ¶ 41. But even as the last claimants filed their claims in late June 2025, the State pushed through the two amendments that have profoundly changed the nature of the Settlement Fund. *Id.* ¶¶ 69-78.

32. The fundamental unfairness of Defendants' conduct is clear. Plaintiffs, and most claimants, would never have filed claims in the Settlement Fund had they known that the Administrator would be a servant of the Governor, and the Attorney General would exercise veto power of the Administrator's decisions. Defendants induced claimants to enter the claims process with false promises, then pulled the rug out from under claimants without warning or opportunity

for public comment. As the New Hampshire Supreme Court has observed, when the government makes the choice to laud its trustworthiness to induce reliance, “*government must keep its word.*” *Opinion (Furlough)*, 135 N.H. at 636 (quoting L. Tribe, *American Constitutional Law* 470 (1978)).

33. Defendants, on the other hand, would suffer no harm by the granting of injunctive relief. The claims process would simply continue to operate as it has for the past year, as designed and as promised when the claimants filed their claims. Indeed, a recent audit found that the Settlement Fund was operating exactly as intended. *See* Compl. ¶¶ 72-74. In short, maintaining the status quo of the Settlement Fund before the passage of the two challenged amendments would cause no harm to Defendants, while allowing those two amendments to be enforced would cause severe and irreparable harm to Plaintiffs and the proposed class.

E. An injunction bond is unnecessary.

34. Plaintiffs request that the Court find that good cause exists for excusing the injunction bond requirement of Superior Ct. R. 48(c) because the Defendants will not incur any costs or damages in connection with the requested preliminary injunction. The injunction would only require Defendants to honor the arbitration process they originally offered to claimants; an offer which claimants accepted. Being compelled to follow their own process will not cause the Defendants damages. To the extent that the Court requires a bond, Plaintiffs are nevertheless prepared to post bond in a reasonable and just amount.

Conclusion

WHEREFORE, for all the foregoing reasons, Plaintiffs respectfully request that this

Court:

- A. GRANT Plaintiffs' Motion for Preliminary Injunction and enjoin Defendants from enforcing the recent amendments to Section III and Section IX(e) of RSA 21-M:11-a (which became effective July 1, 2025);
- B. ORDER a hearing on this Motion for Preliminary Injunction by July 18, 2025, or as soon as the Court's calendar allows; and
- C. GRANT such further relief as this Court deems just, equitable and proper.

Respectfully submitted,

Dated: July 7, 2025

**PLAINTIFFS ANDREW FOLEY,
RONALD "CHUCK" MILES,
and JANE DOE #231
(on behalf of themselves and all those
similarly situated)**

By their attorneys,

RILEE & ASSOCIATES, P.L.L.C.

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CERTIFICATE OF SERVICE

I certify that on July 7, 2025, I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's e-filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case.

/s/ W. Daniel Deane

W. Daniel Deane, Esq

EXHIBIT A-1

CHAPTER 92
SB 591-FN-A - FINAL VERSION

03/21/2024 1228s
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2024 SESSION

24-3155
11/05

SENATE BILL

591-FN-A

AN ACT modifying definitions, claims procedures, and funding relating to the youth development center settlement fund and claims administration.

SPONSORS: Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Soucy, Dist 18; Sen. D'Allesandro, Dist 20; Sen. Birdsell, Dist 19; Sen. Gray, Dist 6; Sen. Carson, Dist 14; Rep. Leishman, Hills. 33; Rep. Packard, Rock. 16; Rep. Wallner, Merr. 19; Rep. Edwards, Rock. 31; Rep. Wilhelm, Hills. 40

COMMITTEE: Judiciary

ANALYSIS

This bill significantly modifies definitions, claims procedures, and funding relating to the youth development center settlement fund and claims administration.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 92
SB 591-FN-A - FINAL VERSION

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT modifying definitions, claims procedures, and funding relating to the youth development center settlement fund and claims administration.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 92:1 Youth Development Claims Administration and Settlement Fund; Modified Definitions, Claims
2 Administration, and Funding. Amend RSA 21-M:11-a to read as follows:

3 21-M:11-a Youth Development Center Claims Administration and Settlement Fund.

4 I. In this section:

5 (a) "Administrator" means an independent, neutral attorney admitted to the practice of law in
6 New Hampshire, chosen in the manner set forth in paragraph III to administer youth development center
7 claims pursuant to this section. The administrator shall have all of the duties and authority granted
8 pursuant to RSA 542, except as otherwise provided in this section.

9 (b) "AG designee" means one or more individuals within the attorney general's office
10 designated by the attorney general.

11 (c) "Claim" means a request for compensation related to one or more incidents of sexual
12 abuse and/or ~~[physical]~~ **other** abuse perpetrated upon a former YDC resident by or at the behest of a
13 member of the YDC staff.

14 (d) "Claimant" means an individual who has filed a claim.

15 (e) ***"Egregious sexual abuse" means sexual abuse that, in the sole discretion of the***
16 ***administrator and in consideration of the factors listed in subparagraph IV(a), is wanton or cruel to such an***
17 ***extent that it is sufficiently in excess of the severity of abuse experienced by most claimants to warrant***
18 ***consideration for additional compensation. The administrator shall take into account the nature,***
19 ***frequency, extent, and severity of the abuse and the claimant's physical and/or psychological damage.***

20 (f) "Former YDC resident" means an individual who resided at the YDC at any time.

21 ~~[(f)]~~(g) "Fund" means the YDC settlement fund established in this section.

22 ~~[(g)]~~(h) "Fact facilitator" means one or more individuals assigned by the administrator to
23 independently investigate a claim.

24 ~~[(h)]~~ (i) "~~[Physical]~~ **Other** abuse" means an incident of conduct that would constitute an
25 offense under RSA 631:1, RSA 631:2, ~~[or]~~ RSA 631:2-a, ***RSA 631:3, RSA 631:4, or RSA 639:3***, and that
26 is not justified under RSA 627:6, ***unlawful restraint, unlawful strip search***, or a common law cause of
27 action for assault or battery~~[-]~~, ***or intentional infliction of emotional distress under New Hampshire common***
28 ***law.***

29 ~~[(i)]~~ (j) "Sexual abuse" means an incident of conduct which would constitute an offense under
30 RSA 632-A:2, RSA 632-A:3, ***RSA 645:1, RSA 644:9***, or RSA 632-A:4, or a ~~[common-law]~~ cause of action
31 for assault or battery ***under New Hampshire common law*** that involves sexual contact or sexual

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1 penetration as defined by RSA 632-A:1[;], *or a common law cause of action for invasion of privacy by*
2 *intrusion upon seclusion under New Hampshire common law, or would otherwise constitute sexual abuse*
3 *under the definition contained in RSA 169-C:3, XXVII-b.*

4 [(j)] (k) [~~"Unlawful confinement" means placement in isolation as discipline without~~] *"Unlawful*
5 *restraint" means placement of claimant in isolated confinement, or in restraints, including physical*
6 *restraints, mechanical restraints, and pharmaceutical restraints without medical necessity or such process*
7 *as was due under the circumstances[or under conditions of confinement that were grossly out of*
8 *proportion to the severity of the conduct giving rise to the discipline, or not as punishment, and not for*
9 *another legitimate penological goal or purpose] *or otherwise in violation of the lawful operative policies**
10 *and procedures of the YDC, and shall include all placements in isolated confinement or in restraints for*
11 *unreasonably excessive durations or for reasons other than for legitimate penological purposes, such as*
12 *for the safety[or] and security of the [resident or others] YDC, its staff, or other juveniles.*

13 (l) *"Unlawful strip search" means any incident where YDC compelled a former YDC resident*
14 *to remove all or most of his or her clothing for a visual and/or physical inspection of his or her body that*
15 *was conducted absent a legitimate penological purpose or in violation of the lawful operative policies and*
16 *procedures of the YDC, and shall include all searches that: (1) were conducted at a time other than upon*
17 *claimant's admission to the YDC or return to the YDC following a furlough, and were conducted absent a*
18 *reasonable suspicion that claimant was concealing contraband, (2) were performed or observed by a staff*
19 *member of the opposite sex, (3) were not conducted privately, such that other residents and staff were*
20 *able to observe the strip search.*

21 [(k)](m) "Youth development center" or "YDC" means the youth development center as
22 identified in RSA 621, [or] *including its renamed or successor entity, the Sununu Youth Services Center,*
23 *and any predecessor entity performing the function of housing [adjudicated delinquent] or providing*
24 *services to children who are the subject of delinquency proceedings, children in need of services*
25 *proceedings, whether pre- or post-adjudication [detained youth], including the State Industrial School, the*
26 *Anna Philbrook [School] Center, the Tobey Special Education School [and the Youth Services Center.], as*
27 *well as the temporary detention facility identified in RSA 621-A as the youth services center and also*
28 *referred to at times as the youth detention services unit, YDSU, or the ADC.*

29 These definitions shall be applicable to claimants, claims, the claims process, and the fund governed
30 by this section. This section is not intended in any way to expand or limit the rights of individuals or the
31 state under any other state statutory or common law.

32 II. There is hereby established in the state treasury the YDC settlement fund which shall be kept
33 distinct and separate from all other funds. The fund shall be administered by the attorney general, who
34 shall use the funds for the purpose of administering claims of former YDC residents as defined in this
35 section. The fund shall be nonlapsing and continually appropriated to the department of justice until June
36 30, 2032, after which date the fund shall lapse to the revenue stabilization reserve account established in
37 RSA 9:13-e, II, unless earlier discontinued by the attorney general, in consultation with the administrator,
38 or as otherwise provided by law. Settlement amounts paid to [former YDC residents] *claimants* shall be
39 as determined by the process outlined in this chapter *and shall be payable upon such terms and*

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1 *conditions as determined by the administrator and accepted by the claimant, subject to the limitations*
2 *provided for in this section.* The attorney general may enter into memoranda of understanding with the
3 judicial branch or any state agency as necessary to compensate them for services performed in
4 furtherance of this chapter. *As the need arises, and subject to approval of the joint fiscal committee, the*
5 *administrator shall have the authority to appoint assistant administrators. In appointing assistant*
6 *administrators, the administrator shall endeavor to appoint individuals with prior experience in*
7 *administering or adjudicating child abuse, sexual abuse, and/or mass tort cases. Assistant administrators*
8 *shall serve at the direction of the administrator and may be removed by the administrator at any time for*
9 *any reason in the discretion of the administrator. Assistant administrators shall have all power and*
10 *authority of the administrator except the authority to render any final decision to approve payment.*

11 III. There is further established in the judicial branch a temporary full-time or part-time position
12 known as the youth development center claims administrator, to be appointed by the supreme court. A
13 part-time administrator may maintain a private, unrelated mediation or legal practice apart from the duties
14 as administrator notwithstanding any other provision of rule or law to the contrary. The supreme court
15 shall appoint an administrator agreed to by the attorney general and counsel for claimants. If the attorney
16 general and counsel for claimants are unable to agree upon an administrator, the supreme court shall
17 select the administrator from the candidates submitted to the court by the attorney general and counsel for
18 claimants, not later than 30 days following the court's receipt of the candidates. The attorney general and
19 counsel for claimants shall each submit two candidates, not later than 30 days following the joint fiscal
20 committee's approval of the claim process and guidelines as provided in paragraph IV. The administrator
21 shall receive compensation at no more than the rate of salary of an active superior court justice and shall,
22 if working full-time, receive the same benefits as other non-judicial employees of the judicial branch. If
23 working part-time, the administrator shall receive compensation at no more than the equivalent per diem
24 rate of an active superior court justice, provided that in any calendar year, the administrator shall not
25 receive more in total compensation than that received by an active superior court justice. The judicial
26 branch shall provide the administrator and any necessary support staff with office space. The salary,
27 benefits, and expenses of the administrator, and any necessary support staff, shall be paid from the fund.
28 The administrator shall report to the chief justice of the supreme court or the chief justice's designee for
29 employment-related purposes, but the supreme court shall have no authority to review the administrator's
30 decisions. At such time as the administrator's duties are concluded, or at such time as full-time service by
31 the administrator is no longer needed to carry out the administrator's duties, the supreme court shall either
32 eliminate the administrator's position or reduce it from a full-time to a part-time position as may be
33 appropriate. The supreme court may remove the administrator if, after a request for removal received
34 from the attorney general or claimants' counsel, or upon the court's own motion, the court determines that
35 good cause for removal exists. Once appointed, the administrator shall process claims as provided herein
36 and may settle claims at such amounts as may be agreed upon between the AG designee and each
37 claimant, or at amounts which are determined by the administrator, giving due consideration to the
38 guidelines adopted by the joint fiscal committee as provided in paragraph IV.

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1 IV.(a) As soon as practical following the effective date of this section, the attorney general, after
2 making good faith efforts to reach agreements with claimants' counsel, and with input from the attorney
3 general's victim/witness advocates, shall develop and present to the joint fiscal committee a claims
4 process consistent with this section including the development of claim forms, identification of necessary
5 or helpful documentation, and guidelines for valuing claims for settlement purposes which take into
6 consideration the following factors:

7 (1) The nature and character of the acts of [~~physical~~] **other** abuse and sexual abuse.

8 (2) The frequency, *duration*, and [~~duration~~] **severity** of those acts.

9 (3) ***The nature and character of the physical and psychological harm to the claimant that***
10 ***resulted from those acts of sexual and other abuse.***

11 (4) Aggravating and mitigating factors, such as whether [~~the acts were also~~
12 ~~accompanied~~] ***the claimant was subjected to multiple forms of sexual and other abuse simultaneously,***
13 ***whether the claimant was abused*** by [~~unlawful confinement,~~] ***multiple abusers simultaneously,*** the impact
14 ***of the sexual and other abuse, the impact of the sexual and other abuse*** on the claimant relative to others
15 similarly situated, the applicable statute of limitations and other potentially available legal defenses if the
16 claims were pursued as litigation, the legal standards in effect at the time of the acts, whether the acts
17 were previously reported to persons in a position of authority, ***and*** whether the acts can be corroborated
18 through contemporaneous reports by the claimant to others.

19 (5) Any other factor that ***the administrator*** may [~~be~~] ***deem*** relevant.

20 (b) The guidelines may group similar claims by type and suggest a value or range of values
21 for each type of claim. The goal of the guidelines shall be to ensure the fair and uniform valuation of
22 claims so that the claims of similarly situated claimants are valued similarly. The joint fiscal committee
23 shall review and vote to either approve or object to the proposed claims process and guidelines within 30
24 days of receipt. If the joint fiscal committee votes to object to the proposed claims process and
25 guidelines, the joint fiscal committee shall articulate its reasons for objection in writing and claimants'
26 counsel and the attorney general shall present for approval a revised version of the proposed claims
27 process and guidelines that addresses the joint fiscal committee's concerns. The joint fiscal committee
28 shall approve a claims process and guidelines prior to appointment of an administrator as set forth in
29 paragraph III. Once approved, the guidelines shall be binding on the AG designee and the administrator.
30 The claims process and guidelines may be revised periodically as deemed necessary by the
31 administrator, again with input from claimants' counsel and the attorney general, and with the approval of
32 the joint fiscal committee.

33 V. For all claims involving both sexual and [~~physical~~] **other** abuse or sexual abuse only, no
34 individual claimant shall be paid more than \$1,500,000 in settlement of all claims in the aggregate. ***For all***
35 ***claims involving egregious sexual abuse, no individual claimant shall be paid more than \$2,500,000 in***
36 ***settlement of all claims.*** For all claims involving [~~physical~~] **other** abuse only, no individual claimant shall
37 be paid more than [~~\$150,000~~] ***\$250,000*** in settlement of all [~~physical~~] **other** abuse claims in the aggregate.
38 ***Claims of isolated confinement may be valued at no more than \$300 per day, and no individual claimant***

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1 *shall be paid more than \$100,000 in settlement of all incidents of isolated confinement, and said payment*
2 *shall be subject to, and not in addition to, the limits established hereunder.*

3 VI. Beginning not later than November 1, 2022, the administrator shall publish notice to the public
4 of the establishment of the YDC settlement fund and the opportunity for former YDC residents to file
5 claims. Such notice shall be published in a newspaper of general circulation in every county in the state,
6 at least once a week for at least 2 consecutive weeks. Such notice shall also be published at least once
7 in a newspaper of national circulation. Such notice shall also be published on such social media platforms
8 as are appropriate in the discretion of the administrator for at least 6 consecutive weeks. Additionally,
9 such notice shall be published to the current residents of all New Hampshire correctional facilities by
10 means of posting or other customary means for such facility, shall be made available by the attorney
11 general via press release, and shall be posted on the attorney general's public website. The publication
12 shall constitute conclusive proof in judicial proceedings of the latest date by which all persons, in the
13 exercise of reasonable diligence, could have discovered both their injuries and the causal relationship of
14 their injuries to the acts or omissions of any employees or agents of the state regarding any incident which
15 might have been the subject of a claim, whether or not such a claim was filed.

16 VII.(a) Any former YDC resident may file a claim. A claim subject to the procedure established in
17 this section may be filed only by the former YDC resident who was personally subject to sexual abuse or
18 [physical] *other* abuse. No claim shall be filed for collateral injuries or damages suffered by any other
19 person resulting from sexual abuse or [physical] *other* abuse of the former YDC resident, including claims
20 for loss of consortium or emotional distress suffered by relatives of the former YDC resident. No claim
21 shall be filed by the executor or administrator of a deceased former YDC resident, but a claim may be filed
22 by the guardian or conservator of a living former YDC resident who is incapacitated. Once a claim has
23 been properly filed by a living former YDC resident, the subsequent death of that claimant shall not
24 extinguish the claim.

25 (b) Claims may be filed beginning January 1, 2023. Claims shall not be accepted after
26 ~~[December 31, 2024]~~ *June 30, 2025*.

27 (c) A former YDC resident's participation in this claims process is voluntary *and does not*
28 *affect any rights the claimant may have unless and until the claimant accepts the administrator's decision*
29 *on the claim*. A former YDC resident who elects not to participate in the claims process, *or a claimant who*
30 *does not accept the administrator's decision*, retains the right to pursue a claim in a judicial or other forum.
31 A former YDC resident is entitled to consult with counsel before deciding whether to participate in the
32 claims process. The administrator shall identify and publish the names of attorneys willing to consult with
33 former YDC residents concerning their decision to file a claim.

34 (d) This section constitutes the state's offer to resolve completely and finally all of the former
35 YDC resident's claims through the claims process established. By filing a claim, the claimant agrees that
36 he or she will participate in the claims process, and, if the claimant~~[-requests that]~~ *accepts* the
37 ~~[administrator decide the claim, agrees to accept the]~~ *administrator's* determination [of] *on* the
38 ~~[administrator as]~~ claim, *such acceptance shall be the* final and binding *settlement of all claims in*
39 *accordance with subparagraph IX(a)*, even if the claimant does not receive any payment from the fund.

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1 The submission of a claim shall constitute an agreement in writing to submit the claim to arbitration as
2 provided in RSA 542:1.

3 (e) By filing a claim, a claimant waives his or her right to simultaneously seek other or
4 additional monetary relief in any forum from the state of New Hampshire or any of its agents or
5 employees, or from any of its political subdivisions or their agents or employees arising out of or relating
6 to any incidents which are or could have been the subject of a claim, except that the claimant does not
7 waive his or her right to seek or continue to seek relief in any forum from an individual whose direct,
8 personal actions constitute sexual abuse or [physical] *other* abuse, even if said individual was a state
9 employee at the time of the acts. The administrator shall require a claimant to execute appropriate
10 agreements or motions to stay any pending proceedings *related to claims that are or could have been*
11 *brought under the settlement fund* as a condition to processing claims provided that such documents
12 expressly preserve the right to pursue claims against individual perpetrators as described.

13 (f) Claims shall be submitted under oath. Claimants shall be entitled to be treated with
14 respect and dignity in the presentment of their claims. Claimants who are believed by the administrator to
15 have deliberately submitted false claims may be referred to an appropriate law enforcement agency.
16 Perpetrators of sexual abuse or [physical] *other* abuse identified by claimants may be referred to an
17 appropriate law enforcement agency by the administrator, but only with the consent and cooperation of
18 the claimant. A claimant shall not be required to cooperate in a criminal investigation as a condition of
19 participating in the claim process.

20 (g) Claims and all documents and information created in connection with claims shall be
21 confidential, except that matter which was not previously confidential shall not become so by virtue of
22 being submitted in connection with a claim, or except as otherwise provided in this section or in RSA 91-
23 A. This confidentiality is provided in order to protect the privacy of the claimant, and only for that reason.
24 The claimant shall not be bound by this obligation of confidentiality and may waive it at any time.

25 VIII.(a) ~~[Within 30 days of receipt of a claim, the administrator shall acknowledge its receipt in~~
26 ~~writing and provide a copy to the AG designee.~~

27 ~~(b) Within 60 days of receipt of a claim, the administrator shall review the claim, and indicate~~
28 ~~whether the claim is considered complete as submitted, or if not, what additional information is required.~~
29 ~~If the administrator requires additional information, the claimant shall provide that information within 90~~
30 ~~days of being notified that additional information is needed, or the claim may be denied as incomplete,~~
31 ~~provided, that the administrator may grant the claimant an extension of time for good cause shown. The~~
32 ~~administrator shall also provide any additional documentation received to the AG designee.~~

33 ~~(c) Once a claim is considered complete, the AG designee shall have 30 days to indicate to~~
34 ~~the claimant and the administrator its position regarding the claim. The AG designee may agree or~~
35 ~~disagree with the claim in whole or in part, and shall indicate whether he or she believes the claim should~~
36 ~~be referred to a fact facilitator. The administrator may grant the AG designee an extension of time to~~
37 ~~indicate its position for good cause shown.~~

38 ~~(d) Following receipt of the AG designee's position, the administrator may refer a claim to a~~
39 ~~fact facilitator if, in the administrator's independent judgment, an investigation is needed. The~~

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1 administrator shall direct the investigator as to any particular aspects of the claimant's claim for which the
2 administrator seeks further information or verification, and in such case, the investigation shall be limited
3 to that scope. If the administrator elects not to refer a claim to a fact facilitator, then the administrator
4 shall so notify the AG designee and the claimant, and advise the claimant in writing regarding his or her
5 options: to accept the AG designee's position, to request the administrator decide the claim, or to
6 withdraw his or her claim from further processing. Within 30 days of receiving the position of the AG
7 designee, the claimant shall indicate to the administrator and the AG designee whether he or she agrees
8 with the AG designee's position, whether he or she wishes for the administrator to decide the claim, or
9 whether he or she wishes to withdraw his or her claim from further processing. In the absence of an
10 indication from the claimant, the administrator may assume that the claimant is in agreement with the
11 position of the AG designee.

12 (e) The purpose of an investigation shall be to verify a claim, as submitted, if possible. The
13 investigation shall, to the greatest extent possible, be conducted in a trauma-informed, respectful, and
14 dignified manner. The investigation may include an interview of the claimant, which may be conducted
15 under oath and recorded. The fact facilitator may also request to review additional records related to the
16 claim. The claimant shall be entitled to the assistance of an advocate in connection with the investigation
17 process who shall be allowed to accompany the claimant during any interview. The claimant shall
18 execute such documents or authorizations as may be necessary to permit the fact facilitator to access
19 records. If the claimant is represented by counsel, counsel shall also be allowed to attend any interview
20 of the claimant. A claim may be denied if a claimant refuses to cooperate with the investigation. Except
21 in extraordinary circumstances, investigations should be completed within 90 days of referral.

22 (f) The fact facilitator shall present a report to the administrator of his or her findings, which
23 shall include a summary of any interviews conducted or records gathered, a copy of any such supporting
24 documentation, records and recordings. The administrator shall provide a copy of the fact facilitator's
25 report and supporting documentation to the claimant and the AG designee once received.

26 (g) Within 30 days of receiving the investigation report, the AG designee shall indicate to the
27 claimant and the administrator its updated position regarding the claim, and the administrator shall advise
28 the claimant in writing regarding his or her options: to accept the AG designee's position, to request the
29 administrator decide the claim, or to withdraw his or her claim from further processing.

30 (h) Within 30 days of receiving the updated position of the AG designee, the claimant shall
31 indicate to the administrator and the AG designee whether he or she agrees with the AG designee's
32 position, whether he or she wishes for the administrator to decide the claim, or whether he or she wishes
33 to withdraw the claim from further processing. In the absence of an indication from the claimant, the
34 administrator may assume that the claimant is in agreement with the position of the AG designee. If the
35 claimant and the AG designee are in agreement regarding the disposition of the claim, the administrator
36 shall make an award consistent with the parties' agreement.

37 (i) The AG designee and the claimant or claimant's counsel may also engage in discussion
38 separate and apart from their stated claim positions in an effort to resolve their disagreements regarding a
39 claim. Such discussions shall be treated in like fashion to settlement discussions conducted under New

1 Hampshire rules of evidence 408, and the administrator shall not be apprised of efforts to compromise in
2 the event that the claim proceeds to a resolution proceeding.] *A claim is filed when a claimant submits a*
3 *notice of claim form that provides the claimant's identifying and biographical information, identification of*
4 *the claimant's attorney, if applicable, and a summary of the abuse alleged by the claimant. A claimant*
5 *shall have 60 days from the filing of a notice of claim to file a complete claim form that includes all*
6 *information the claimant wishes to submit to the administrator and states the amount of compensation*
7 *sought by claimant. A complete claim form shall indicate whether the claimant requests the opportunity to*
8 *provide testimony, under oath, in a live resolution proceeding, or whether the claimant would prefer to*
9 *submit the claim based solely on written submissions.*

10 (b) *Within 14 days of receipt of a complete claim, the administrator shall acknowledge its*
11 *receipt in writing and provide a copy to the AG designee.*

12 (c) *Within 30 days of receipt of a complete claim, the administrator shall review the claim,*
13 *and provide written notice to the claimant and the AG designee indicating whether the claim is considered*
14 *administratively complete as submitted, or if not, what additional information is required. If the*
15 *administrator requires additional information, the claimant shall provide that information to the*
16 *administrator and the AG designee within 60 days of being notified that additional information is needed.*
17 *Within 14 days of the administrator's receipt of additional information from the claimant, the administrator*
18 *shall provide written notice to the claimant and the AG designee that the claim is administratively*
19 *complete, unless the claim is still missing required information, in which case the administrator may give*
20 *the claimant a reasonable opportunity to cure.*

21 (d) *Within 21 days after the administrator's notice that a claim is administratively complete,*
22 *the AG designee may submit to the administrator and to the claimant a written initial position on the claim*
23 *indicating any areas of disagreement with the claim and explaining the basis for any disagreement,*
24 *whether the AG designee believes additional records or information are needed, whether the AG designee*
25 *believes the administrator should refer any aspect of the claim to a fact facilitator, and whether the AG*
26 *designee believes that the administrator should conduct a live resolution proceeding. If the AG designee*
27 *submits a written initial position, the claimant may submit a response within 14 days.*

28 (e) *The administrator shall issue a notice to the claimant and AG designee regarding the*
29 *resolution process within 30 days after the administrator's notice that the claim is administratively*
30 *complete, unless the AG designee submits a written initial position, in which case the administrator shall*
31 *issue the notice within 30 days after the claimant's response is due. The administrator's notice shall*
32 *provide the administrator's decision as to whether further information is needed from claimant, whether to*
33 *refer the claim or any aspect the claim to a fact facilitator, and whether a live resolution proceeding shall*
34 *be conducted. If the administrator decides to hold a live resolution proceeding, the administrator will*
35 *schedule the proceeding to occur within 60 days, except that if the administrator also decides to refer the*
36 *claim to a fact facilitator, the resolution proceeding will occur no earlier than 30 days after the fact*
37 *facilitator submits his or her report to the administrator.*

38 (f) *The administrator may refer a claim to a fact facilitator if, in the administrator's*
39 *independent judgment, an investigation is needed. Because the timely processing of claims is an*

1 *important goal of this section, the administrator should only refer a claim to a fact facilitator in cases where*
2 *the administrator believes that the claimant's written submissions and live testimony in a resolution*
3 *proceeding will not sufficiently answer a question that is material to the administrator's final determination*
4 *of the claim. The administrator shall direct the fact facilitator as to any particular aspects of the claimant's*
5 *claim for which the administrator seeks further information or verification, and in such case, the*
6 *investigation shall be limited to that scope.*

7 *(g) The purpose of an investigation shall be to verify a claim, as submitted, if possible. The*
8 *investigation shall, to the greatest extent possible, be conducted in a trauma-informed, respectful, and*
9 *dignified manner. The investigation may include an interview of the claimant, which may be conducted*
10 *under oath and recorded. The fact facilitator may also request to review additional records related to the*
11 *claim. The claimant shall be entitled to the assistance of an advocate in connection with the investigation*
12 *process who shall be allowed to accompany the claimant during any interview. The claimant shall*
13 *execute such documents or authorizations as may be necessary to permit the fact facilitator to access*
14 *records. If the claimant is represented by counsel, counsel shall also be allowed to attend any interview of*
15 *the claimant. A claim may be denied, in whole or in part, if a claimant refuses to cooperate with the*
16 *investigation. Except in extraordinary circumstances, investigations should be completed within 60 days*
17 *of referral.*

18 *(h) Within 60 days of the referral, the fact facilitator shall present a report to the administrator*
19 *of his or her findings, which shall include a summary of any interviews conducted or records gathered, a*
20 *copy of any such supporting documentation, records, and recordings. The administrator shall provide a*
21 *copy of the fact facilitator's report and supporting documentation to the claimant and the AG designee*
22 *once received.*

23 *(i) While the administrator shall endeavor to process all claims as expeditiously as possible,*
24 *the administrator is authorized to grant reasonable extensions to all deadlines upon a finding of good*
25 *cause shown. The administrator may also continue or suspend resolution proceedings as may be*
26 *reasonably necessary. To the greatest extent possible, claims shall be scheduled for resolution in the*
27 *order that they are received and determined to be complete, except that the administrator may also give*
28 *consideration to the time for which litigation may have been pending prior to the filing of a claim as well as*
29 *any exigent circumstances, such as the ill health of the claimant. After a notice of claim is filed, a*
30 *claimant's claim cannot be dismissed for a default of any deadline unless and until the claimant is given*
31 *written notice of such default and 30 days to cure the default.*

32 *(j) The AG designee and the claimant or claimant's counsel may also engage in discussions*
33 *in an effort to resolve the claimant's claim at any time before the claimant elects to accept the*
34 *administrator's decision on the claim. If the claimant and AG designee agree to a settlement, they shall*
35 *promptly inform the administrator of the settlement and the settlement terms and all further proceedings*
36 *before the administrator shall be canceled.*

37 IX.(a) ~~When a claimant requests that the [administrator decide the claim, the administrator shall~~
38 ~~schedule the claim for a resolution proceeding according to the]~~ *administrator hold a live resolution*
39 *proceeding, the proceeding shall be conducted in accordance with the* procedures approved by the joint

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1 fiscal committee. All resolution proceedings shall take place in the state of New Hampshire, although
2 parties and witnesses may attend by telephone or video conference in the discretion of the administrator.[
3 ~~To the greatest extent possible, claims shall be scheduled for resolution in the order that they are received~~
4 ~~and determined to be complete, except that the administrator may also give consideration to the time for~~
5 ~~which litigation may have been pending prior to the filing of a claim.] When a claimant accepts the
6 administrator's decision on the claim, a claimant fully waives his or her right to seek other or additional
7 monetary relief in any forum from the state of New Hampshire or any of its agents or employees, or from
8 any of its political subdivisions or their agents or employees arising out of or relating to any incidents
9 which are, or could have been the subject of a claim, except that the claimant does not waive his or her
10 right to seek or continue to seek relief in any forum from an individual whose direct, personal actions
11 constitute sexual abuse or [physical] *other* abuse, even if said individual was a state employee at the time
12 of the acts.[~~The administrator shall require a claimant to execute appropriate dismissals, waivers,~~
13 ~~releases, or other documents as a condition of scheduling a resolution proceeding, provided that such~~
14 ~~documents expressly preserve the right to pursue claims against individual perpetrators as described.]~~~~

15 (b) The administrator may require such submissions by the parties as the administrator
16 determines, may consider such information as the administrator deems appropriate, and shall resolve
17 claims based upon written submission, through conciliation, by conducting a [hearing] *proceeding*, or on
18 any other basis determined by the administrator. The claimant shall be entitled to the assistance of an
19 advocate in connection with the resolution process who shall be allowed to accompany the claimant
20 during any[hearing] *proceeding* or meeting.

21 (c) Any [hearing] *proceeding* conducted by the administrator shall be scheduled for not more
22 than 3 hours unless good cause is shown regarding the need for more time and shall be conducted in a
23 victim-centered, trauma informed way, to the greatest extent possible. If the claimant is represented by
24 counsel, counsel shall also be allowed to attend and participate in any [hearing] *proceeding*.

25 (d) At any [hearing] *proceeding*, any witnesses who testify shall be sworn.

26 (e) *Except in extraordinary cases, the administrator shall declare the resolution process*
27 *closed within 30 days of the resolution proceeding, during which the AG designee may file any written*
28 *submission related to the claim.* The administrator shall issue a written decision to the parties within [30]
29 *14* days of the conclusion of the resolution process. The administrator's decision regarding the claim shall
30 be final and non-appealable, and the provisions of RSA 542:8, RSA 542:9, and RSA 542:10 shall not
31 apply, provided, however, that either the claimant or the AG designee may request the administrator to
32 reconsider a decision on grounds that it contains mathematical mistakes, [or] miscalculations, *or a*
33 *scrivener's error. Such a request to reconsider a decision must be made within 10 days of the issuance of*
34 *the administrator's decision.*

35 X. Upon the rendering of any final decision to approve payment of any part of a claim, whether
36 made by the administrator pursuant to the agreement of the claimant and the AG designee or pursuant to
37 a determination by the administrator following a resolution proceeding, the payment shall be made from
38 the YDC settlement fund established in paragraph II *within 30 days of the administrator's receipt of the*
39 *claimant's executed settlement documents in a form acceptable to the AG designee. The administrator*

1 *shall require a claimant to execute appropriate dismissals, waivers, releases, or other documents as a*
2 *condition of payment, provided that such documents expressly preserve the right to pursue claims against*
3 *individual perpetrators as described. The administrator shall be authorized to direct payment of a claim*
4 *from the YDC settlement fund without being required to seek approval from the AG designee.* In addition,
5 the claimant may request, and the administrator shall hold a face-to-face meeting with the claimant where
6 the claimant may speak with the administrator without the AG designee present. The conduct of such a
7 meeting shall not be considered a part of a resolution process and shall [be] not be available if a
8 resolution process is requested until after it is completed.

9 XI. Any agreement between the claimant and the AG designee and any determination by the
10 administrator may include a determination *by the administrator* that a claim [should] *shall* be paid in
11 annual installments over a period of up to 10 years. [~~A claimant may indicate that he or she does not wish~~
12 ~~to receive installment payments, and the administrator shall honor the claimant's wishes in this regard.]~~
13 Additionally, *in the case of a lump sum award*, a claimant may request that he or she receive the award in
14 the form of periodic payments under a structured settlement that (i) is the subject of a qualified
15 assignment that satisfies the conditions of Internal Revenue Code Section 130 and releases the fund from
16 any liability for the periodic payments; and (ii) is funded by an annuity contract issued by a life insurance
17 company domiciled in the United States, licensed in New Hampshire and rated A or better by A.M. Best.
18 Upon receipt of such a request, the administrator shall accommodate the processing of an award in said
19 fashion. Additionally, the administrator may maintain and provide to claimants a list of licensed structured
20 settlement specialists who have indicated a desire to assist in establishing periodic payments to meet a
21 claimant's anticipated needs.

22 XII. [~~If the administrator determines that a shortfall in the YDC settlement fund is likely to occur,~~
23 ~~the administrator, in consultation with the attorney general, shall request additional funds from the~~
24 ~~legislature.]~~

25 *(a) The administrator shall have the responsibility to monitor the balance of the fund and*
26 *ensure that there are sufficient funds available to pay all claims due either as a lump sum or periodic*
27 *payments. In making determinations as to whether claims will be paid as a lump sum or periodic*
28 *payments, the administrator may not authorize more than \$75,000,000 in claims to be paid out from the*
29 *fund in any given fiscal year, provided that the joint fiscal committee and governor and council may, upon*
30 *the administrator's request, authorize the administrator to exceed this cap by expenditure of any additional*
31 *funds available in the fund or by expenditure of funds not otherwise appropriated. The administrator shall*
32 *have discretion, within available appropriations, to determine whether a claim should be paid as a lump*
33 *sum or through periodic payments based on a totality of claimant's circumstances, including, but not*
34 *limited to, claimant's health and financial circumstances.*

35 *(b) For all claims that are paid in periodic installments, the administrator's final decision shall*
36 *include a calculation of interest on all deferred payments. The administrator shall add an interest*
37 *assessment of 5 percent of the remaining unpaid amount of the award per annum for each year of*
38 *repayment, which shall be compounded annually. Claimants shall not be required to accept or decline the*

1 *administrator's final decision, nor to sign any releases or waivers, until they have had opportunity to*
2 *review the administrator's schedule for installment payments, if applicable.*

3 *(c) Notwithstanding any other provision of this section, all payments authorized by the*
4 *administrator are contingent upon the making of sufficient appropriations to the fund or sufficient*
5 *expenditure authorizations. The governor is authorized to draw a warrant from funds in the treasury not*
6 *otherwise appropriated to replenish the fund, subject to the approval of the joint fiscal committee and*
7 *governor and council.*

8 *(d) Should the state default on any payment owed pursuant to a final decision by the*
9 *administrator, whether entered pursuant to agreement of the parties or pursuant to a decision of the*
10 *administrator, and whether the payment owed is a lump sum or periodic payments, the administrator's*
11 *final decision shall convert into a final judgment enforceable in any superior court of New Hampshire,*
12 *unless the state cures the default by making such installment or lump payment in full within 30 days.*
13 *Such final judgment shall be the total amount owed by the state to the claimant, less any partial payments*
14 *made by the state. Claimant shall also be entitled to reimbursement for any reasonable attorneys' fees*
15 *and costs incurred to enforce such a judgment. This subparagraph shall apply to payments made within*
16 *the statutory cap provided for in this section or within any additional expenditure authorizations granted to*
17 *the administrator by the joint fiscal committee and the governor and council.*

18 ~~XIII. [The costs of administration of the fund and any costs of the attorney general which are~~
19 ~~outside of the ordinary operational expenses of the department of justice shall be paid from the fund.]~~ *If*
20 *the administrator determines that a shortfall in the YDC settlement fund is likely to occur, the*
21 *administrator, in consultation with the attorney general, shall request an appropriation of additional funds*
22 *from the legislature.*

23 ~~XIV. [The administrator may approve all fees and costs of attorneys who represent claimants in~~
24 ~~proceedings before the administrator. The administrator shall not approve any request of an attorney for~~
25 ~~fees or costs which are not reasonable. The administrator shall not approve an attorney's fee in excess of~~
26 ~~33 1/3 percent of the amount of the award. All costs and attorney's fees paid to a claimant's attorney shall~~
27 ~~be paid from the amount awarded to the claimant.~~

28 ~~XV. The administrator, in consultation with the attorney general, shall quarterly submit a report to~~
29 ~~the speaker of the house of representatives, the president of the senate, the joint fiscal committee and the~~
30 ~~governor providing information as to the number and nature of claims made and settled, the amounts~~
31 ~~requested and paid in settlement to date, the claim amounts pending, an estimate of the likely amounts~~
32 ~~which will be approved and paid, the administrative costs which have been paid, and an estimate of future~~
33 ~~administrative costs to be paid. The report shall be structured to protect the privacy and anonymity of the~~
34 ~~claimants. The attorney general shall also post the report on the department of justice's public website.]~~

35 *The costs of administration of the fund and any costs of the attorney general which are outside of the*
36 *ordinary operational expenses of the department of justice shall be paid from the fund.*

37 *XV. The administrator may approve all fees and costs of attorneys who represent claimants in*
38 *proceedings before the administrator. The administrator shall not approve any request of an attorney for*
39 *fees or costs which are not reasonable. The administrator shall not approve an attorney's fee in excess of*

1 *33.33 percent of the amount of the award. All costs and attorney's fees paid to a claimant's attorney shall*
2 *be paid from the amount awarded to the claimant.*

3 *XVI. The administrator, in consultation with the attorney general, shall quarterly submit a report to*
4 *the speaker of the house of representatives, the president of the senate, the joint fiscal committee and the*
5 *governor providing information as to the number and nature of claims made and settled, the amounts*
6 *requested and paid in settlement to date, the claim amounts pending, an estimate of the likely amounts*
7 *which will be approved and paid, the administrative costs which have been paid, and an estimate of future*
8 *administrative costs to be paid. The report shall be structured to protect the privacy and anonymity of the*
9 *claimants. The attorney general shall also post the report on the department of justice's public website.*

10 92:2 Applicability. Section 1 of this act shall apply to both pending, unresolved claims and claims
11 filed on or after the effective date of this act. No claimant who has previously brought a claim that has
12 been resolved may refile a claim under section 1.

13 92:3 Appropriation. The sum of \$60,000,000 for the biennium ending June 30, 2025, is hereby
14 appropriated to the YDC settlement fund established in RSA 21-M:11-a, II. The governor is authorized to
15 draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

16 92:4 Effective Date. This act shall take effect upon its passage.

Approved: June 14, 2024
Effective Date: June 14, 2024

EXHIBIT A-2

Claims Process for Administration of the YDC Settlement Fund

August 30, 2024

Preface

This *Claims Process for Administration of the YDC Settlement Fund* (“Claims Process”) has been developed pursuant to NH RSA 21-M:11-a, IV (a). It governs the submission, administration, settlement, and resolution of claims of abuse at the Youth Development Center, as set forth in NH RSA 21-M:11-a (the “Statute”). In any case of conflict between this Claims Process and the Statute, the Statute shall govern. References in the form “Subsection x” are to subsections of the Statute.

This Claims Process was considered and approved by the Joint Fiscal Committee of the New Hampshire General Court on September 6, 2022. A revised version, prompted by changes to the Statute, was considered and approved by the Joint Fiscal Committee of the New Hampshire General Court on August 11, 2023. A subsequent revised version, prompted by additional changes to the Statute, was considered and approved by the Joint Fiscal Committee of the New Hampshire General Court on August 16, 2024. It may be revised from time to time pursuant to Subsection IV (b) of the Statute. All revisions will be posted on the Administrator’s website (<https://www.ydcclaims.nh.gov>).

Other important documents: The *Guidelines for Valuing Claims for Settlement Purposes* (“Guidelines”), and the *Claim Packet*, approved by the Joint Fiscal Committee of the New Hampshire General Court on September 6, 2022, and as may be revised thereafter, are also a part of this Claims Process and are also available on the Administrator’s website.

A revised version of the *Claim Packet* was considered and approved by Joint Fiscal Committee on August 11, 2023. A subsequent revised version of the *Claim Packet* and revised version of the *Guidelines*, prompted by changes to the Statute, was considered and approved by the Joint Fiscal Committee of the New Hampshire General Court on August 16, 2024.

Interested parties are advised to check the Administrator’s website or to contact the Administrator for the most up-to-date version of this Claims Process at:

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr., Administrator

E-mail: claims@ydcclaims.nh.gov

Website: www.ydcclaims.nh.gov

Postal Mailing: P.O. Box 1930, Concord, NH 03302-1930
Satellite Office: 1 Granite Place, Suite 402N, Concord, NH 03301
Phone: (603) 415-2136; Toll Free Phone: (833) 423-2136

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Section 1: Submission of Claims to the Administrator

1. Who May File a Claim

- a. Any living Former YDC Resident who was personally subjected to Sexual Abuse or Other Abuse may file a Claim for that abuse.

“YDC” is used here in the same way it is defined in the Statute. Please see the **Glossary** at the end of this document, for ease of reference.

“Sexual Abuse” or “Other Abuse” is used here in the same way it is defined in the Statute and in the *Guidelines for Valuing Claims for Settlement Purposes*. Please see the **Glossary** at the end of this document, for ease of reference.

- b. A person who is uncertain whether the facility in which they resided meets the definition of “YDC” may still file a Claim. In the event the Claimant is ineligible, the Administrator will deny the Claim. In the event the denial occurs during administrative review, the Claim will be forwarded to the AG Designee for informational purposes.

* Contact information for the AG Designee and information about **how to access resident files** from the New Hampshire Department of Health and Human Services is posted on the website of the Administrator (<https://www.ydcclaims.nh.gov>).

- c. If a living Former YDC Resident has a guardian or conservator, their guardian or conservator may file a Claim on their behalf.

2. When to File a Claim

- a. Claims and Notice of Claims may be filed until June 30, 2025.

Notices of Claims will not be accepted or reviewed if they are received after midnight on June 30, 2025. Claims will not be accepted or reviewed if they are received after midnight on June 30, 2025 unless both of the following are true: (1) the Claimant timely filed a Notice of Claim prior to midnight on June 30, 2025, and (2) the completed Claim is filed within 60 days from the date that the Claimant filed the Notice of Claim, or within such additional time the Administrator grants for good cause shown under Section 16 of this Claims Process.

3. Forms Required for Submission of Claims

- a. Claims must be submitted using the Claim Form and must include required documents to complete the Claim Packet.
 - b. Claims may be submitted to the Administrator electronically through the Claims Management System (“CMS”) available on the Administrator’s website. If you are unable to use the electronic claim filing process, please contact Claims Administration staff for assistance.
 - c. If a Claimant is unable to complete all steps of the Claim Form or Claim Packet, Claimant should submit a Claim that is as close to complete as possible. The Claimant should identify what items are missing and when the Claimant intends to provide the items along with the required **Statement of Completion**. The Administrator’s staff can provide guidance on completing the Claim, upon request. The Administrator’s staff cannot provide legal advice.
 - d. In the event that a Claimant initially submits only a Notice of Claim without a Claim Form, then the Claimant must submit a completed and signed Notice of Claim form through the Claims Administration email at: claims@ydcclaims.nh.gov and *not* through the CMS. Both the Claimant and the Claimant’s attorney (if any) must sign the form. Alternative ways to submit paper copies of Notice of Claim forms are available. Please contact Claims Administration staff for assistance.
 - e. Submitting a Notice of Claim form is not required. In the event a Claimant chooses to submit a Notice of Claim form, then the following information must be provided to complete the form: the Claimant’s identifying and biographical information; identification of the Claimant’s attorney, if applicable; information of the abuse alleged by the Claimant; signature of both the Claimant and the Claimant’s attorney, if applicable; and the date that the Claimant expects to submit a Claim Form and all required documents for the Claim Packet. A Claimant shall have 60 days from the filing of a Notice of Claim to file a completed Claim Form.
4. Content Required for a Claim to be Considered Administratively Complete

To be considered administratively complete, a Claimant must provide:

- a. A completed **Claim Form**, with as much requested information included as possible, signed under oath and notarized by way of a separate Notary document. The Claim Form requires identification of whether the Claimant is requesting a live hearing resolution proceeding, or whether the Claimant would prefer to submit the Claim based solely on written submissions. If the Claimant has retained an attorney, both the Claimant and the Claimant’s attorney must sign the Claim Form.
- b. A **written narrative** providing as much detail as the Claimant is able to recall about the abuse episodes.

- c. A completed **Statement of Eligibility** as a Former YDC Resident, with supporting documents and reference sheet. Identify whether eligibility is based on (1) the person's recollection alone, (2) supporting documents (such as Resident File or court documents), or (3) both recollection and supporting documents.
 - d. **Resident file, court records**, or other supporting documents for eligibility (if available) with a reference sheet (if available), or an explanation of efforts undertaken to locate and obtain such documents.
 - e. A completed **Information for Resolution Proceeding** form.
 - f. A completed, signed **Notice of Filing of Claim and [Partial] Stay** (if a lawsuit has already been filed), or sufficient documentation showing that the lawsuit is no longer pending in court (such as a voluntary nonsuit).
 - g. A copy of one of the following **Identification Documents** (or a substitute form of identification acceptable to the Administrator):
 - 1. Claimant's driver's license,
 - 2. A government-issued ID card that contains Claimant's photo, or
 - 3. Claimant's passport.
 - h. If a Guardian or Conservator is filing the Claim:
 - 1. A copy of the Guardianship or Conservatorship Order establishing their authority.
 - i. If the Claimant has an attorney:
 - 1. A copy of the fee agreement between Claimant and the attorney; and
 - 2. An affidavit detailing the time and work the attorney spent on the Claim.
 - j. A **Statement of Completion** form listing all materials submitted for the Claim; identifying the efforts taken to locate supporting documentation; and affirming that the Claim Packet includes all information the Claimant wishes to submit to the Administrator and is administratively complete.
5. Additional Information That Can Be Submitted At the Time of Filing Claim

A Claimant may also provide other supportive documents and information related to a Claim. The following documents and information are encouraged to assist the Administrator's evaluation of the Claim:

- a. A completed **Claim Worksheet** form based on *Guidelines for Valuing Claims for Settlement Purposes*
- b. Medical records, doctors' reports
- c. Mental health records, therapy notes
- d. Diaries, notebooks, or journals
- e. Photographs
- f. Complaint in any related law suit
- g. Statements from witnesses
- h. Written impact statement
- i. Statement of valuation (or memo) under the *Guidelines for Valuing Claims for Settlement Purposes*. The statement or memo should address eligibility,

compensability, and other factors identified in the *Guidelines*. Its purpose is to assist the Administrator's independent evaluation of the Claim, and to prepare in conducting a live resolution proceeding with suggested questions for the Claimant to talk about during the proceeding (if applicable). Please note that if a Claimant chooses not to provide a statement of valuation (or memo) for the initial Claim Packet, the Administrator may require this submission in connection with the resolution proceeding.

- Be sure to review the *Guidelines for Valuing Claims for Settlement Purposes* when considering supporting documents and information to provide with the Claim Packet and submitting a Statement of Completion. The Administrator is required to follow the *Guidelines* when evaluating a claim during a resolution proceeding. A copy of the *Guidelines* is available on the Administrator's website and a paper copy can be provided, upon request.

6. Administrative Completeness of a Claim

- a. Once the Claimant has submitted to the Administrator the required **Statement of Completion**, the Claimant shall provide a copy of the Claim Packet to the AG Designee. Thereafter, Claimant should not voluntarily provide additional documents for the Claim Packet, unless the Claimant submits a request to the Administrator showing good cause for delayed submission and the request is approved by the Administrator. The Claimant is expected to provide available records and documents to help the Administrator's independent evaluation.
- b. If a Claimant chooses to initially file a Claim by submitting a Notice of Claim, **without** a Claim Form and all required documents for the Claim Packet, then the Claimant shall have 60 days from the submission of the Notice of Claim to complete the Claim with all information the Claimant wishes to submit to the Administrator.
- c. Within 14 days of receipt of a Statement of Completion for a Claim, the Administrator shall acknowledge receipt of the Statement of Completion in writing to the Claimant and provide a copy of the acknowledgement to the AG Designee. Additionally, the Administrator shall certify the Notice of Filing of Claim and [Partial] Stay and deliver the original notice to the AG Designee for filing with the appropriate Court, unless the Claimant provided sufficient documentation showing that the lawsuit is no longer pending in court (such as a voluntary nonsuit).
- d. Within 30 days of receipt of a Statement of Completion for a Claim, the Administrator shall review the Claim and determine whether or not it is administratively complete in order to provide a copy of the Claim Packet to the

AG Designee to process and determine whether to provide an initial written position to the Claimant and to the Administrator.

- e. The Administrator shall notify the Claimant and the AG Designee of their determination and, if applicable, notify what missing information is required in order to consider the Claim administratively complete.

7. Completing Incomplete Claims

- a. The Administrator's staff shall provide guidance to the Claimant regarding additional resources available for further assistance, if needed, to help complete the Claim submission.
- b. The Claimant shall have 60 days from the date of notification that necessary information is missing to provide the additional information.
- c. Within 14 days of receipt of additional information from the Claimant, the Administrator shall determine whether the claim is administratively complete, or not, and provide further reasonable opportunity to cure (if applicable). The Administrator shall provide the AG Designee with all additional missing information received from the Claimant.
- d. After a sufficient Notice of a Claim form is filed, a Claimant's claim cannot be dismissed for a default of any deadline unless and until the Claimant is given written notice of such default and 30 days to cure the default.

Section 2: Initial Position by AG Designee and Response by Claimant

8. Notification of Claim Completion

The Administrator will notify the Claimant and the AG Designee when a Claim Packet is deemed administratively complete, identify the complete date, and provide a copy of the Claim Packet to the AG Designee.

9. Evaluation of a Claim by the AG Designee

- a. The AG Designee may evaluate a Claim deemed administratively complete by the Administrator.
- b. The AG Designee may indicate their written initial position with respect to a Claim to the Administrator and the Claimant within 21 days of receipt of notice of administrative completeness.

- c. To the extent the AG Designee chooses to take a position on a Claim, the AG Designee may agree or disagree with the Claim, in whole or in part, and may identify an offered resolution award amount.
- d. To assist the Administrator's evaluation of a Claim under the *Guidelines for Valuing Claims for Settlement Purposes*, the AG Designee is encouraged to submit an initial written position which includes a position on eligibility; identifies areas of support or disagreement along with an explanation; identifies whether and what additional records or information are needed or may be helpful; and provides documentation (if available). A statement may also include whether the AG Designee believes that the Administrator should refer any aspect of the Claim to a fact facilitator, and whether the AG Designee believes that the Administrator should conduct a live resolution proceeding, along with suggested questions for the Claimant to talk about during a live proceeding under oath.

10. Claimant's Response

- a. If the AG Designee submits a written initial position, then the Claimant may submit a written response to the AG Designee and to the Administrator within 14 days of receiving the initial position.
- b. The Claimant's response should focus on primary areas of difference in the parties' positions under the *Guidelines* and address documents submitted by the AG Designee, if any.
- c. The Claimant may submit a request to provide additional information for the Claim, identifying good cause why the documentation was not provided prior to the Statement of Completion. The Claimant is expected to provide available records and documents in advance of a Statement of Completion to help the Administrator evaluate and resolve key issues, such as eligibility and compensability of the amount of compensation sought by the Claim as submitted.

Section 3: Fact Facilitation

11. Referral of a Claim for Fact Facilitation

- a. The Administrator may refer a Claim to a Fact Facilitator if, in his or her independent judgment, additional information is needed.
- b. The Administrator should only refer a Claim to a Fact Facilitator in cases where the Administrator believes that the Claimant's written submissions and live testimony in a resolution proceeding will not sufficiently answer a question that is material to the Administrator's final determination of the Claim.

- c. The choice of a Fact Facilitator to be assigned will be at the discretion of the Administrator.

12. Conduct of Fact Facilitation Process

- a. The purpose of the fact facilitation process is to verify a Claim as submitted, if possible, and it shall be conducted to the greatest extent possible in a trauma-informed, respectful, and dignified manner.
- b. The Administrator may direct the Fact Facilitator to focus on any particular aspects of a Claim to obtain further information or verification, in which case the information gathering process shall be limited in scope to the identified issues.
- c. The Fact Facilitator may interview the Claimant, to be conducted under oath and recorded, and may request and review additional records related to the Claim.
- d. The Claimant shall be entitled to the assistance of an advocate in connection with the information gathering process, who shall be allowed to accompany the Claimant during any interview.
- e. If the Claimant is represented by an attorney, then the attorney may also attend any interview.
- f. The Claimant shall execute such documents, releases and authorizations as may be necessary to permit the Fact Facilitator to access records.
- g. A Claim may be denied, in whole or in part, if a Claimant refuses to cooperate with the Fact Facilitator.

13. Fact Facilitator's Report

- a. The Fact Facilitator shall present a report of their findings to the Administrator, which shall include a summary of any interviews conducted or records gathered, as well as copies of any such supporting documentation, records, and recordings.
- b. Except in extraordinary circumstances, the Fact Facilitator shall complete the information gathering process and provide their report to the Administrator within 60 days of assignment. In the event this process cannot be completed within 60 days, the Fact Facilitator shall provide an interim report to the Administrator within 60 days, providing the reasons the process has not been completed.

- c. The Administrator shall provide copies of all Fact Facilitator's reports and supporting documentation to the AG Designee and Claimant upon receipt.

Section 4: Administrator's Resolution Proceedings

14. Preliminary Matters; Scheduling

- a. The Administrator shall issue a notice to the Claimant and the AG Designee regarding the resolution process within 30 days after issuing the notice that the claim is administratively complete ("scheduling notice"), unless the AG Designee submits a written initial position. If so, then the scheduling notice shall be issued within 30 days after the Claimant's response is due.
- b. The scheduling notice for a resolution proceeding shall provide the Administrator's decision as to whether further information is needed from the Claimant, whether to refer the Claim or any aspect of the Claim to a fact facilitator, and whether a live resolution proceeding shall be conducted. In determining whether to conduct a live resolution proceeding, the Administrator will give significant weight to the Claimant's stated preference.
- c. If the Administrator decides to hold a live resolution proceeding, the Administrator will schedule the proceeding to occur within 60 days, except for instances where the Administrator decides to refer a Claim to a fact facilitator. Consideration shall also be given to efficiency in scheduling.
- d. If the Administrator decides to refer a Claim to a fact facilitator, then the resolution proceeding will be scheduled to occur no earlier than 30 days after the fact facilitator submits his or her report to the Administrator.
- e. Resolution proceedings shall be scheduled, to the extent practicable, in the order Claims are received and determined to be administratively complete, while also giving consideration to the length of time litigation may have been pending prior to submission of the Claim as well as any exigent circumstances, such as the ill health of the Claimant. Consideration shall also be given to efficiency in scheduling.

15. Conduct of Resolution Proceedings

- a. Resolution proceedings shall take place within New Hampshire, though parties and witnesses may, at the discretion of the Administrator, participate by telephone

or video from within or outside New Hampshire. All witnesses and Claimants shall be sworn and their testimony taken under oath.

- b. In the resolution proceeding, the parties shall not disclose to the Administrator any other positions taken or communications made in an attempt to resolve their differences regarding a Claim. Such discussions shall be treated as settlement discussions conducted under NH Rule of Evidence 408.
- c. The Administrator may require additional written submissions, additional documents or other information from the parties in support of their positions. The parties may also be asked by the Administrator to provide answers to specific questions in advance of the scheduled proceeding.
- d. Claimant's attorney, if any, shall update and resubmit their fee affidavit in advance of a resolution proceeding detailing time and work the attorney spent on preparing for the resolution proceeding, to assist the Administrator's determination of attorney's fees and costs. Claimant's attorney may provide an additional update at the close of a resolution proceeding, to the extent there is a material difference in time and work performed that has not been already identified.
- e. The Claimant (through the Claimant's attorney, if any) shall, in advance of a resolution proceeding, provide information and supporting documents (if any) relevant to payment type to assist the Administrator's determination of payment type in the event that the Administrator's final decision makes an award. The information and documents should allow for a totality of circumstances assessment (such as health and financial circumstances including any litigation funding obligation) of the Claimant, and identify the Claimant's preference of lump sum or periodic installments with term of years, structured settlement option, and single payment or payment term for portion of attorney's fees (if any).
- f. Claims may be resolved on written submission, through an evidentiary hearing, and/or by oral argument based upon the previously developed record. In addition to the positions and other submissions of the parties, any Fact Facilitator's report shall also be considered as part of the record.
- g. No hearing in a resolution proceeding shall be scheduled to last more than three hours. Proceedings, including hearings and arguments, shall be conducted in a victim-centered, trauma-informed manner to the greatest extent possible.
- h. The Claimant shall be entitled to the assistance of an advocate in any resolution proceeding, who shall be allowed to accompany the Claimant during any hearing or meeting.

- i. The AG Designee or their representative, as well as Claimant’s attorney, if any, may also attend and participate in any hearing or meeting during the resolution process.
- j. The Administrator may continue or suspend resolution proceedings as may be reasonably necessary.
- k. At a resolution proceeding hearing, the parties (or their counsel) may provide feedback to the Administrator based on the Claimant’s live testimony and indicate whether post-hearing memos or submissions are advisable. Each party will have fifteen (15) minutes to provide any such feedback.
- l. Within 14 days after the resolution proceeding, Claimant’s attorney, if any, may update and resubmit their fee affidavit to detail any time and work the attorney spent on preparing for and attending the resolution proceeding, to assist the Administrator’s determination of attorneys’ fees and costs.
- m. Except in extraordinary circumstances, the Administrator shall declare the resolution process closed within 30 days of the resolution proceeding, during which the AG Designee and the Claimant may file any written submission related to the Claim, provided, however, that Claimants’ post-resolution submission, if any, shall be limited to updates to the information relevant to the Administrator’s determination of payment type, such as changes to the Claimant’s health and financial circumstances.

Section 5: Decision on the Claim by the Administrator

Content of Decision

16. Within 14 days of the conclusion of the resolution process, the Administrator shall issue a written decision on the Claim and provide a copy to the Claimant and to the AG Designee.
17. The Administrator’s decision about the Claim may, but need not, include findings of fact or conclusions of law. It shall include a calculation of an approved Claim amount (if any), in a form similar to the Claim Worksheet in the Claim Packet with the addition of any consideration to be given to Mitigating or Exceptional Factors, as set forth in the *Guidelines on Valuation of a Claim for Settlement Purposes*.

Attorney’s Fees and Costs

18. The Administrator’s decision shall (if applicable) include the portion of an approved Claim amount to be paid to an attorney to compensate the attorney for the fees and costs associated with representing the Claimant, with the following guidance:

- a. The Administrator shall approve only those fee requests that are reasonable.
- b. In determining whether a fee request is reasonable, the Administrator shall consider any fee agreement or contract for payment of attorney's fees and case costs between the Claimant and Claimant's attorney, but in no event may the Administrator approve an attorney's fee award in excess of one third (33.33%) of the amount awarded.
- c. No award of attorney's fees shall be made without the submission of an attorney affidavit setting forth the work performed on the Claimant's behalf and attesting that the attorney's fee request complies with the requirements of NH Rule of Professional Conduct 1.5.

Form of Payment

19. In the event that the Administrator's decision involves a compensation award for the Claim, the Administrator's final decision shall include the determination based on the totality of the Claimant's circumstances (including health and financial circumstances), that the Claim is to be paid in installments over a period of up to 10 years, or, as a lump sum.
20. For all claims that are determined to be paid in periodic installments, the Administrator's final decision will include a schedule for installment payments with a calculation of interest on all deferred payments. The Administrator is required to add an interest assessment of 5 percent of the remaining unpaid amount of the award per annum for each year of repayment, to be compounded annually.

Notice to Claimant

21. The Administrator's final decision shall include notice to the Claimant of the following option: (1) to accept the final decision; or, (2) to withdraw the Claim from further processing and continue with any previously pending litigation (if applicable).
22. The notice shall make clear that the Claimant has 30 days to respond, and that if the Claimant does not provide a response, then the Administrator is required to assume that the Claimant has accepted the Administrator's decision and is electing the first option.
23. The notice shall also make clear that:
 - If the Claimant elects the first option (to accept the Administrator's final decision), then the Claimant will waive the right to seek other or additional monetary relief in any forum from the State of New Hampshire or any of its agents or employees, or from any of its political subdivisions or their agents or employees arising out of or relating to any incidents which are or could have been the subject of a Claim, except that the Claimant will not waive their right to seek or continue to seek relief in any forum from an individual whose direct, personal actions constitute sexual abuse or other/physical abuse, even if said individual was a state employee at the time of the

acts. In the case of a lump sum award, the Claimant may request that he or she receive the award in the form of periodic payments under a structured settlement agreement.

- The Claimant may request a private meeting with the Administrator after the Claim is closed for claim processing.

Finality and Request for Reconsideration

24. The Administrator's decision shall be final and non-appealable, except that either party may ask the Administrator to reconsider a decision on grounds that it contains mathematical mistakes, miscalculations or a scrivener's error.
25. Any request for reconsideration shall be made in writing and delivered to the Administrator with a copy to the other party, within 10 days of issuance of the decision.
26. Any reply to a request for reconsideration shall be made in writing and delivered to the Administrator with a copy to the other party, within 15 days of the date of the request for reconsideration.
27. The Administrator shall make a decision regarding any request for reconsideration within 30 days of its receipt.

Section 6: Claimant's Response to the Administrator's Final Decision; Actions Required

28. The Claimant shall not be required to accept or decline the Administrator's final decision, nor sign any releases or waivers, until they have had the opportunity to review the Administrator's schedule for installment payments, if applicable.
29. If the Claimant does not respond within 30 days of the Administrator's final decision, or, the Claimant responds and elects option one indicating that they are in agreement with the final decision on the Claim, then the Administrator will proceed as outlined in the Sections called *Closure of Claim* and *Payment Processing for Approved Awards*, below.
30. If the Claimant responds and elects option two indicating that they wish to withdraw the Claim from further proceedings, then the Administrator will acknowledge the Claimant's request in writing and take no further action with respect to the Claim, in accord with the Section called *Closure of Claim*, below. The Claimant may file the Administrator's acknowledgement of withdrawal with a court, if needed, in order to request that any stay imposed under the Statute be lifted.

Section 7: Closure of Claim

Closure of Resolved Claims

31. The Administrator shall close a Claim as resolved in the event that (1) the Claimant accepts the Administrator's final decision, or, (2) the parties provide the Administrator

with a stipulation of agreement with required information sufficient for the Administrator to approve the resolved Claim amount proceeding to payment processing, under Section called *Payment Processing for Approved Awards*, below.

Administrative Closure of Denied or Withdrawn Claims

32. The Administrator shall deny and administratively close a Claim when any of the following circumstances exists and cannot reasonably be cured in the judgment of the Administrator, and the effect of an administrative closure under any of these circumstances shall be the same as if the Claimant had withdrawn the Claim:
 - a. When critical missing information is not provided, assistance by the Administrator's staff has been offered and/or utilized, and a Claim cannot be determined to be sufficiently complete under Section 1 above, to proceed to an AG Designee evaluation;
 - b. When the Claimant fails to cooperate with the fact facilitation being conducted under Section called *Fact Facilitation*, above;
 - c. When the Claimant fails to provide current contact information or ceases communication or cooperation with the Administrator;
 - d. When the Claimant repeatedly misses deadlines or scheduled hearing or meeting dates for the resolution proceeding without good cause, and has been given reasonable opportunity to cure; or
 - e. If the Claimant fails or refuses to execute Waiver and Release Forms as required for authorizing payment.
33. The Administrator shall administratively close a Claim when the Claimant elects to withdraw from the Claims Process.

Section 8: Payment Processing for Approved Awards

Proceeding to Payment

34. A Claim shall proceed to payment when:
 - a. the Claimant and the AG Designee stipulate to a disposition of the Claim in writing as described in Section called *Stipulated Agreements and Settlement Discussions*, provide their stipulation to the Administrator, and the Administrator authorizes the award to proceed to payment processing; or

- b. the Administrator's decision in a resolution proceeding becomes final and the Administrator authorizes the final award (if any) to proceed to payment processing.
35. The Administrator shall authorize an award to proceed to payment processing within 30 days of either (a) the Administrator's receipt of a stipulation of disposition in accordance with Paragraph 34.a, or (b) the Claimant's acceptance of the Administrator's decision in a resolution proceeding.

Claimant's Election Regarding Structured Settlement

36. The Claimant may request that they receive an award in the form of periodic payments under a structured settlement that (i) is the subject of a qualified assignment that satisfies the conditions of Internal Revenue Code Section 130 and releases the Fund from any liability for the periodic payments; and (ii) is funded by an annuity contract issued by a life insurance company domiciled in the United States, licensed in New Hampshire and rated A or better by A.M. Best. The Claimant's wishes in this regard shall be honored.

Execution of Waiver and Release Forms Prior to Payment

37. Before authorizing payment from the Fund, the Administrator shall require the Claimant to execute a waiver form and related documents, which may include releases, waivers, stipulations of dismissal, or other documents (together "Waiver and Release Forms").
38. The Waiver and Release Forms must be executed by the Claimant and Claimant's attorney, if any, and returned to the AG Designee and the Administrator. Any Stipulations of Dismissal or similar documents will be filed with the Court by the AG Designee.
39. The Waiver and Release Forms shall provide that Claimant permanently and finally waives and relinquishes the right to seek other or additional monetary relief in any forum from the State of New Hampshire or any of its agents or employees, or from any of its political subdivisions or their agents or employees arising out of or relating to any incidents which are or could have been the subject of a Claim, except that the Claimant will not waive their right to seek or continue to seek relief in any forum from an individual whose direct, personal actions constitute sexual abuse or other abuse, even if said individual was a state employee at the time of the acts. The Waiver and Release Forms are to be developed and provided to the Claimant by the AG Designee.

Authorization and Processing of Payment

40. Once decisions regarding form of payment have been made, and verification of the execution of Waiver and Release Forms has occurred, the AG Designee will promptly obtain IRS Form W-9s from Claimant and Claimant's attorney (if any) and process

payment according to the terms of the Administrator's final decision accepted by the Claimant or stipulated agreement. Payments will be processed by the Department of Justice. The AG Designee will provide notice to both the Administrator and the Claimant when processing is scheduled to occur. The notice shall make clear that payment may take up to 30 days after the Administrator's receipt of the Claimant's properly executed settlement documents in a form acceptable to the AG Designee. The payment shall be made within 30 days from the AG Designee's receipt of the executed settlement documents described above and any acknowledgment required by the Claims Administrator.

Section 9: Claimant's Duty to Update Contact Information

41. Claimant and their attorney (if any) shall keep the Administrator's staff and the AG Designee apprised of their current contact information at all times. Loss of contact with a Claimant may result in denial and closure of a Claim, as set forth in the Section called *Closure of Claim*, above.

Section 10: Stipulated Agreements and Settlement Discussions

42. At any time during the pendency of a Claim, the AG Designee and the Claimant (or Claimant's attorney) may engage in discussions separate and apart from their stated Claim positions in an effort to resolve any disagreements regarding a Claim, or to discuss resolution of matters which may fall outside the Claim.
43. Settlement discussions shall remain confidential. The parties shall not disclose to the Administrator any other positions taken or communications made in an attempt to resolve their differences regarding a Claim. Such discussions shall be treated as settlement discussions conducted under NH Rule of Evidence 408.
44. If settlement discussions result in an agreement for resolving a Claim, the parties shall stipulate to their agreement in writing and present it to the Administrator. The stipulation shall include the agreed-upon form of payment, the agreed-upon Claim amount, and the portion of the agreed-upon Claim amount to be paid to an attorney to compensate the attorney for the fees and costs associated with representing the Claimant, which shall not exceed 33.33% of the amount awarded.
45. The Administrator, upon receipt of the parties' stipulation, shall review it for required criteria identified in this Section and either conduct a discretionary assessment of the form of payment identified in the stipulation or take no further action regarding the Claim other than to finalize and close the Claim according to the parties' agreement and approve the Claim for proceeding to payment processing.

Section 11: Confidentiality and Privacy

46. The Administrator and the AG Designee shall respect the privacy of Claimants and the confidentiality of proceedings under this *Claims Process* to the greatest extent permitted by law.
47. With the exception of settlement discussions, which shall remain confidential until any resolution proceeding is concluded, the Claimant may disclose information regarding a Claim or Claim proceedings at any time.
48. Permitted sharing of docket and claim information is further described in the Section called *Docketing and Organization*, below.

Section 12: Private, Face-to-Face Meeting

49. The Claimant may request, and the Administrator shall hold, a face-to-face meeting with the Administrator, where the Claimant may speak with the Administrator privately about their experiences without the AG Designee being present.
50. The Claimant may have an advocate present at the meeting.
51. A private meeting with the Administrator may not occur until after the Claim is closed for claims processing.

Section 13: Lists of Resources for Claimants

52. The Administrator shall maintain and make available to Claimants a list of volunteer attorneys willing to consult with any Claimant regarding whether or not to file a Claim and preparation or submission of their Claim.
53. The Administrator may also maintain a list of trained victim's advocates who are willing to assist Claimants.
54. The Administrator may also maintain a list of structured settlement specialists who are willing to work with Claimants.
55. The Administrator may also maintain a list of mental and behavioral health support services who are willing to assist Claimants.

Section 14: Law Enforcement Referrals

56. A Former YDC Resident's participation in the Claims Process is voluntary.

57. A Claimant shall not be required to cooperate in a criminal investigation as a condition of participating in the Claims Process.
58. Alleged perpetrators of sexual abuse or other abuse identified by Claimants may be referred to law enforcement by the Administrator, but only with the consent and cooperation of the Claimant.
59. A Claimant who the Administrator believes to have deliberately submitted a false Claim in order to fraudulently obtain compensation from the Fund may also be referred to an appropriate law enforcement agency.

Section 15: Docketing and Organization

60. The Administrator shall assign a Claim number and, when applicable, a resolution proceeding number to each Claim received.
61. The Administrator shall maintain a docket, including:
 - the name of the Claimant,
 - Claim number,
 - claimed amount,
 - date of initial submission of the Claim,
 - date of determination of administrative completeness of the Claim,
 - date of filing of any related civil litigation (and the docket number of the litigation),
 - date of receipt of the AG Designee's position regarding the Claim
 - date of referral to a Fact Facilitator, if applicable,
 - date of completion of the report by a Fact Facilitator, if applicable,
 - date of live resolution proceeding, if applicable,
 - date of disposition of the Claim,
 - amount paid to dispose of the Claim, if any,
 - and such other information as the Administrator deems appropriate.
62. The docket and claim file information shall be shared with the AG Designee and authorized representatives for the purpose of processing claims and payments but shall not be released to unauthorized persons or made publicly available without redaction or anonymization to protect the confidentiality and privacy of Claimants.
63. Information from the docket and claim file related to a given Claimant may be shared with that Claimant and that Claimant's attorney or trusted contact identified by the Claimant.

64. If, when Claims are filed, it is determined that a significant number of Claimants are currently residing in a correctional facility, the AG Designee and the Administrator shall work with the Department of Corrections to develop a prison sub-docket. The prison sub-docket may be used as a basis for efficiently conducting interviews, fact facilitation, and holding hearings for Claimants residing in a correctional facility. For Claimants residing in out of state correctional facilities, the Claimant's attorney (if any) and the AG Designee shall work with the Administrator and the correctional facility to facilitate claim processing needs.
65. For Claimants who are residents of a correctional facility, limited sharing of claim information with correctional personnel in a confidential manner may be necessary solely for the purpose of claims processing and payment processing.

Section 16: Extensions and Timely Processing

66. The Claimant or the AG Designee may request an extension of time for deadlines.
67. Requests must be in writing (when possible), with a copy to the other party, and identify whether there is mutual assent (when possible) along with a proposed date for a revised deadline.
68. The Administrator shall grant reasonable requests for extension of time that are supported by good cause.
69. The Administrator shall endeavor to process all claims as expeditiously as possible and is authorized to grant reasonable extensions to all deadlines upon a finding of good cause shown.

Section 17: Future Forms Development

70. The Administrator may develop forms for communication and reporting where specified in this *Claims Process* without further approval by the Joint Fiscal Committee.

Section 18: Glossary

"Administrator" means an independent, neutral attorney admitted to the practice of law in New Hampshire, chosen in the manner set forth in Subsection III of RSA 21-M:11-a to administer youth development center claims pursuant to that statute.

"AG Designee" means one or more individuals within the attorney general's office designated by the attorney general.

“Claim” means a request for compensation related to one or more incidents of sexual abuse and/or other abuse perpetrated upon a Former YDC Resident by or at the behest of a member of the YDC staff.

References to the **“Claim Form”** and **“Claim Worksheet”** are to the documents contained in the **“Claim Packet”** approved by the Joint Fiscal Committee.

“Claimant” means an individual who has filed a Claim.

“Former YDC Resident” means an individual who resided at YDC at any time. (A current YDC resident is also a “Former YDC Resident.”)

“Fund” means the YDC settlement fund established by RSA 21-M:11-a.

“Fact Facilitator” means one or more individuals assigned by the administrator to independently obtain further information or verification about a claim.

“Other abuse” means an incident of conduct that would constitute an offense under RSA 631:1, RSA 631:2, RSA 631:2-a, RSA 631:3, RSA 631:4, or RSA 639:3, and that is not justified under RSA 627:6, unlawful restraint, unlawful strip search, or a common law cause of action for assault or battery, or intentional infliction of emotional distress under New Hampshire common law.

“Resident File” means the file maintained by the Youth Development Center for each resident pursuant to RSA 621:15 or a similar file maintained by any other facility covered by the definition of “YDC.”

“Sexual abuse” means an incident of conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, RSA 645:1, RSA 644:9, or RSA 632-A:4, or a cause of action for assault or battery under New Hampshire common law that involves sexual contact or sexual penetration as defined by RSA 632-A:1, or a common law cause of action for invasion of privacy by intrusion upon seclusion under New Hampshire common law, or would otherwise constitute sexual abuse under the definition contained in RSA 169-C:3, XXVII-b.

“Statute” means RSA 21-M:11-a, including amendments.

“YDC” means the Youth Development Center, as identified in RSA chapter 621, including its renamed or successor entity, the Sununu Youth Services Center, and any predecessor entity performing the function of housing or providing services to children who are the subject of delinquency proceedings, children in need of services proceedings, whether pre- or post-adjudication, including the State Industrial School, the Anna Philbrook Center, the Tobey Special Education School, as well as the temporary detention facility identified in RSA 621-A as the youth services center and also referred to at times as the youth detention services unit, YDSC, or the ADC.

EXHIBIT A-3

Guidelines for Valuing Claims for Settlement Purposes

Introduction

These Guidelines for Valuing Claims for Settlement Purposes (the “Guidelines”) govern how Claims of abuse will be valued and paid from the YDC Settlement Fund (the “Fund”). They are intended to be used uniformly by the Claimant, the AG Designee and the Administrator. It is the goal of these Guidelines to provide for a fair and uniform valuation of Claims for all Claimants, so that similar Claims receive similar compensation.

Overview of the Valuation Process

Valuing a Claim involves four basic steps:

1. Determining the Base Award;
2. Determining and Applying a Frequency Multiplier;
3. Applying any Applicable Aggravating Factors; and
4. Taking into Account any Mitigating or Exceptional Factors.

These steps will be performed separately for each type of abuse—sexual abuse and other abuse. For Claimants making both types of Claims, these steps will be performed twice.

The Claim Packet contains a Claim Worksheet which is intended to help each Claimant perform the first three of these steps. Claimants will use the Claim Worksheet to calculate their awards, adjusted for frequency and increased by any applicable Aggravating factors. Claimants are not asked to make reductions based on any Mitigating factors. The AG Designee may determine whether they believe any Mitigating or Exceptional factors apply in arriving at their position regarding Claims. The Administrator may also determine whether any Mitigating or Exceptional factors apply in arriving at a final Claim determination.

Valuing Claims

Step One: Determining the Base Award

The Base Award for a Claimant is a dollar amount. For sexual abuse Claims, Base Award amounts range from \$25,000.00 to \$200,000.00. For other abuse Claims, Base Award amounts range from \$300 to \$50,000.00.

Each Base Award corresponds to a category of abuse.

For Claimants who experienced only one category of abuse of a single type (sexual or other), the Base Award amount is the amount corresponding to that category.

For Claimants who experienced abuse falling in multiple categories of a single type (sexual or other), the Base Award for that type of abuse is the amount corresponding to the category of abuse that provides the most compensation.

The following tables identify the categories for each type of abuse which can be compensated by the Fund:

Table 1 – Categories of and Base Award Amounts for Claims of Sexual Abuse (“SA”)

Category	Description	Base Award Amount
A	Anal or Genital Rape (Sexual Penetration of the Anus or Genital Openings)	\$200,000
B	Oral Rape (Fellatio, Cunnilingus, Sexual Penetration of the Mouth)	\$150,000
C	Intimate Sexual Touching (Masturbation)	\$100,000
D	Other Touching (Groping)	\$50,000
E	Conduct Creating a Reasonable Apprehension of Sexual Abuse OR Conduct Constituting Indecent Exposure, Lewdness, or Violations of Privacy	\$25,000

Table 2 – Categories of and Base Award Amounts for Claims of Other Abuse (“OA”)

Category	Description	Base Award Amount
A	Other abuse resulting in permanent or life-threatening bodily injury	\$50,000
B	Other abuse resulting in serious bodily injury	\$25,000
C	Other abuse resulting in bodily injury OR intentional infliction of emotional distress	\$10,000
D	Other abuse with no significant injury; Reckless Conduct; Criminal Threatening; and Child Endangerment	\$2,500
E	Unlawful strip search OR unlawful restraint – physical, mechanical, or pharmaceutical restraint	\$1,000
F	Unlawful restraint – Placement in isolated confinement	Up to \$300 per day, not to exceed \$100,000 and subject to \$250,000 maximum for other abuse

The categories of sexual abuse and other abuse contained in these tables are further described below. To the extent an incident of abuse does not fit clearly within one of these categories, the category which most closely resembles the incident in question should be used.

Sexual Abuse

“Sexual Abuse” means “an incident of conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, RSA 645:1, RSA 644:9, or RSA 632-A:4, or a cause of action for assault or battery that involves sexual contact or sexual penetration as defined by RSA 632-A:1, or a common law cause of action for invasion of privacy by intrusion upon seclusion under New Hampshire common law, or would otherwise constitute sexual abuse under the definition contained in RSA 169-C:3, XXVII-b.” RSA 21-M:11-a, I(j).

To be the basis of an award, sexual abuse must have been perpetrated upon a Former YDC Resident by an Actor. RSA 21-M:11-a, I(c).

“Former YDC Resident” means an individual who resided at YDC at any time. RSA 21-M:11-a, I(f). A current YDC resident is also a “Former YDC Resident.”

“YDC” means the Youth Development Center, as identified in RSA chapter 621, including its renamed or successor entity, the Sununu Youth Services Center, and any predecessor entity performing the function of housing or providing services to children who are the subject of delinquency proceedings, children in need of services proceedings, whether pre or post-adjudication, including the State Industrial School, the Anna Philbrook School, the Tobey Special Education School, as well as the temporary detention facility identified in RSA 621-A as the youth services center and also referred to at times as the youth detention services unit, YDSU, or the ADC. RSA 21-M:11-a, I(m).

“Egregious sexual abuse” means sexual abuse that, in the sole discretion of the Administrator and in consideration of the factors listed below, is wanton or cruel to such an extent that it is sufficiently in excess of the severity of abuse experienced by most claimants to warrant consideration for additional compensation. To arrive at this determination, the Administrator shall take into account:

- (1) The nature and character of the acts of other abuse and sexual abuse.
- (2) The frequency, duration, and severity of those acts.
- (3) The nature and character of the physical and psychological harm to the claimant that resulted from those acts of sexual and other abuse.
- (4) Aggravating and mitigating factors, such as whether the claimant was subjected to multiple forms of sexual and other abuse simultaneously, whether the claimant was abused by multiple abusers simultaneously, the impact of the sexual and other abuse, the impact of the sexual and other abuse on the claimant relative to

others similarly situated, the applicable statute of limitations and other potentially available legal defenses if the claims were pursued as litigation, the legal standards in effect at the time of the acts, whether the acts were previously reported to persons in a position of authority, and whether the acts can be corroborated through contemporaneous reports by the claimant to others.

(5) Any other factor that the Administrator may deem relevant.

Sexual Abuse Category A—Anal or Genital Rape

This category is based on sexual penetration by the Actor of the anus or genital openings of the Claimant or sexual penetration by the Claimant of the anus or genital openings of the Actor during the period of Claimant's residency at YDC.

"Actor" means a staff member of YDC, or an individual acting at the behest of the staff member of YDC. Staff members of YDC include individuals who were employed by YDC, including unpaid volunteers or interns directly hired or engaged by YDC.

"Genital Openings" means the internal or external genitalia including, but not limited to, the vagina, labia majora, labia minora, vulva, urethra, or perineum.

Sexual penetration for purposes of Category A includes, but is not limited to, sexual intercourse and anal intercourse. **"Sexual penetration"** for purposes of Category A means:

- (a) Any intrusion, however slight, of any part of the Actor's body, including emissions or any object manipulated by the Actor into the genital or anal openings of the Claimant's body;
- (b) Any intrusion, however slight, of any part of the Claimant's body, including emissions or any object manipulated by the Claimant into the genital or anal openings of the Actor's body; or
- (c) When the Actor through force, coercion, or intimidation causes any part of another person's body to be utilized in place of the Actor's in the manner described in (a) or (b).

"Emissions" include semen, urine, and feces.

"Objects" include animals as defined in RSA 644:8, II.

Sexual Abuse Category B—Oral Rape

This category is based on sexual penetration by the Actor of the oral opening (mouth) of the Claimant or sexual penetration by the Claimant of the oral opening (mouth) of the Actor during the period of Claimant's residency at YDC.

The terms “**Actor**,” “**emissions**,” and “**objects**” have the same meaning here as in Category A.

Sexual penetration for purposes of Category B includes, but is not limited to, fellatio and cunnilingus. “**Sexual penetration**” for purposes of Category B means:

- (a) Any intrusion, however slight, of any part of the Actor's body, including emissions or any object manipulated by the Actor into the oral opening of the Claimant's body;
- (b) Any intrusion, however slight, of any part of the Claimant's body, including emissions or any object manipulated by the Claimant into the oral opening of the Actor's body; or
- (c) When the Actor through force, coercion, or intimidation causes any part of another person's body to be utilized in place of the Actor's in the manner described in (a) or (b).

Sexual Abuse Category C—Intimate Sexual Touching

This category is based on intimate sexual contact between the Actor and the Claimant which does not involve sexual penetration as defined in Categories A and B during the period of Claimant's residency at YDC. “Intimate” refers to sexual contact that involves more than mere groping, and involves a heightened level of intimacy based on the nature of the contact and its severity.

The term “**Actor**” has the same meaning here as in Category A.

“**Sexual contact**” for purposes of Category C means the intentional touching, directly, through clothing or otherwise, of the Claimant's or Actor's sexual or intimate parts, including genitals, emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification, or the humiliation of the person being touched. Sexual contact may include touching by the Claimant of their own sexual or intimate parts, if done at the behest of the Actor. Sexual contact for purposes of Category C includes, but is not limited to, masturbation and other similar conduct.

Sexual Abuse Category D—Other Touching

This category is based on touching of the Claimant by the Actor for the purpose of sexual arousal or gratification of the Actor or the humiliation of the person being touched, which does not involve sexual penetration as defined in Categories A and B or intimate sexual contact as defined in Category C during the period of Claimant's residency at YDC.

The term “**Actor**” has the same meaning here as in Category A.

“**Other touching**” is the same as “groping.”

"Groping" means the intentional touching whether directly, through clothing or otherwise, of the Claimant's sexual or intimate parts, including genitals, emissions, tongue, anus, breasts, and buttocks, by the Actor that can be reasonably construed to be lacking any legitimate purpose. Groping does not include touching of the Claimant's sexual or intimate parts for another legitimate purpose, such as for purposes of medical care; touching of the Claimant's sexual or intimate parts that is accidental; or touching of the Claimant's sexual or intimate parts that is incidental to justified touching of the Claimant in the interests of the safety of the Claimant or others, the security of the facility, or the preservation of order and discipline; or touching of the Claimant's body that constitutes an act of "Other Abuse" under these Guidelines.

Sexual Abuse Category E— Conduct Creating a Reasonable Apprehension of Sexual Abuse OR Conduct Constituting Indecent Exposure, Lewdness, or Violations of Privacy

The first category of Sexual Abuse Category E is based on conduct that involves no touching, but which causes Claimant to reasonably fear an imminent danger of sexual abuse during the period of Claimant's residency at YDC. The next three categories of Sexual Abuse Category E are indecent exposure, lewdness, or a violation of privacy during the period of Claimant's residency at YDC. Each of these last three categories are further defined below and do not require the Claimant to reasonably fear imminent danger of sexual abuse.

The term "**Actor**" has the same meaning here as in Category A.

The terms "sexual penetration" and "sexual contact" shall here include any of the meanings of those terms contained in Categories A-C.

Conduct which satisfies the conditions of Category E includes, but is not limited to, indecent exposure, lewdness, and violations of privacy.

"Indecent exposure" and/or **"lewdness"** occur when an Actor, for the purpose of the Actor's sexual gratification or arousal:

- (a) purposely fornicates, exposes their genitals, or performs any other act of gross lewdness knowing that the Claimant is present or under circumstances which he or she should know will likely cause affront or alarm; or
- (b) purposely performs any act of sexual penetration or sexual contact on himself or another in the presence of Claimant; or
- (c) transmits to Claimant an image of themselves fornicating, exposing their genitals, or performing any other act of gross lewdness, except that such conduct is excluded from this category when the Claimant is 16 years of age or older and consented to receipt of the image.

A “**violation of privacy**” for purposes of Category E occurs when an Actor:

(a) for the purpose of sexual gratification or arousal installs or uses any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of Claimant including the genitalia, buttocks, or female breasts, or a Claimant's body underneath that person's clothing; or

(b) for the purpose of arousing or gratifying their sexual desire, knowingly views the private body parts of Claimant including the genitalia, buttocks, or female breasts, with or without the Claimant's knowledge.

(c) A “**violation of privacy**” for purposes of Category E also occurs when an Actor engages in conduct that intrudes upon a Claimant's physical and mental solitude or seclusion in relation to something secret, secluded, or private pertaining to that Claimant. Such conduct is compensable under Category E only where the intrusion has gone beyond the limits of decency; the conduct must be such that the Actor should have realized that it would be offensive to persons of ordinary sensibilities. See *Fisher v. Hooper*, 143 N.H. 585, 590 (1999).

“**Views,**” as used here, means looking at another person with the unaided eye or any device intended to improve visual acuity.

A violation of privacy does not occur when installation or use of a device as described in (a) is done for another legitimate purpose, such as for purposes of medical care; or in the interests of the safety of the Claimant or others, the security of the facility, or the preservation of order and discipline.

A violation of privacy also does not occur when viewing as described in (b) occurs accidentally, or for another legitimate purpose, such as for purposes of medical care; or in the interests of the safety of the Claimant or others, the security of the facility, or the preservation of order and discipline.

A violation of privacy also does not occur when installation or use of a device as described in (a) is done or viewing as described in (b) occurs in order to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, or any other suspected pattern or practice by the Claimant or others, potentially adversely affecting safety of the Claimant or others, the security of the facility, or the preservation of order and discipline.

Other Abuse

“Other Abuse” means an incident of conduct that would constitute an offense under RSA 631:1, RSA 631:2, RSA 631:2-a, RSA 631:3, RSA 631:4, or RSA 639:3 and that is not justified under RSA 627:6, unlawful restraint, unlawful strip search, or a common law cause of action for assault or battery, or intentional infliction of emotional distress under New Hampshire common law. RSA 21-M:11-a, I(i).

To be the basis of an award, other abuse must have been perpetrated upon a Former YDC Resident by an Actor. RSA 21-M:11-a, I(c).

“Former YDC Resident” means an individual who resided at YDC at any time. RSA 21-M:11-a, I(f). A current YDC resident is also a “Former YDC Resident.”

“YDC” means the Youth Development Center, as identified in RSA chapter 621, including its renamed or successor entity, the Sununu Youth Services Center, and any predecessor entity performing the function of housing or providing services to children who are the subject of delinquency proceedings, children in need of services proceedings, whether pre or post-adjudication, including the State Industrial School, the Anna Philbrook School, the Tobey Special Education School, as well as the temporary detention facility identified in RSA 621-A as the youth services center and also referred to at times as the youth detention services unit, YDSU, or the ADC. RSA 21-M:11-a, I(m).

“Justified” as used in these Guidelines has the same meaning as in RSA 627:6.

Additionally, to be the basis of an award, other abuse must have occurred separately from and unrelated to an instance of sexual abuse. If physical force is used in connection with sexual abuse, it is already considered in determining the appropriate category for the sexual abuse Claim.

“Unlawful restraint” means unjustified placement of claimant in isolated confinement, or in restraints, including physical restraints, mechanical restraints, and pharmaceutical restraints without medical necessity or such process as was due under the circumstances or otherwise in violation of the lawful operative policies and procedures of the YDC, and shall include all unjustified placements in isolated confinement or in restraints for unreasonably excessive durations and for reasons other than for legitimate penological purposes, such as for the safety and security of the YDC, its staff, or other juveniles. (RSA 21-M:11-a, I. (k))

“Unlawful strip search” means any incident where an Actor compelled a Former YDC Resident to remove all or most of his or her clothing for a visual and/or physical inspection of his or her body that was conducted absent a legitimate penological purpose or in violation of the lawful operative policies and procedures of the YDC, and shall include all searches that: (1) were conducted at a time other than upon claimant’s admission to the YDC or return to the YDC following a furlough, and were conducted absent a reasonable suspicion that claimant was concealing contraband, (2) were

performed or observed by staff member(s) of the opposite sex, (3) were not conducted privately, such that other residents and staff were able to observe the strip search. To the extent a Claimant experienced sexual abuse (as defined *supra*) in the context of a strip search, that sexual abuse should be treated as a separate incident and valued using the Guidelines applicable to sexual abuse, rather than treated as an unlawful strip search.

Other Abuse Category A—Other Abuse Resulting in Permanent or Life-Threatening Bodily Injury

This category of other abuse is based on an unjustified use of physical force by the Actor against the Claimant which causes permanent or life-threatening bodily injury to the Claimant during the period of Claimant’s residency at YDC.

"Actor" means a staff member of YDC, or an individual acting at the behest of a staff member of YDC. Staff members of YDC include individuals who were employed by YDC at any time, including unpaid volunteers or interns directly hired or engaged by YDC.

Use of physical force **"by the Actor"** includes incidents in which the Actor through force, coercion, or intimidation causes another person to use physical force against the Claimant.

"Permanent or life-threatening bodily injury" means injury involving a substantial risk of death; loss or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent. (U.S. Sentencing Guidelines, § 1B1.1, app. note 1(K))

Other Abuse Category B—Physical Abuse Resulting in Serious Bodily Injury

This category of other abuse is based on an unjustified use of physical force by the Actor against the Claimant which causes serious bodily injury to the Claimant, during the period of Claimant’s residency at YDC.

"Actor" and **"by the Actor"** have the same meaning here as in Category A.

"Serious bodily injury" means injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation. U.S. Sentencing Guidelines, § 1B1.1, app. note 1(M).

Other Abuse Category C—Physical Abuse Resulting in Bodily Injury OR Intentional Infliction of Emotional Distress

This category of other abuse is based on an unjustified use of physical force by the Actor against the Claimant which causes bodily injury to the Claimant, during the period of Claimant’s residency at YDC.

This category of other abuse is also based on the intentional infliction of emotional distress by the Actor upon the Claimant. **“Intentional infliction of emotional distress”** as used in these Guidelines is compensable when an Actor, by extreme and outrageous conduct, intentionally or recklessly causes severe emotional distress to a Former YDC Resident. The Actor’s conduct must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community. It is insufficient that the Actor acted with an intent which is tortious or even criminal, or that he/she intended to inflict emotional distress, or even that his conduct could have been characterized by malice. Mere threats or name calling do not constitute compensable conduct under this definition. The Former YDC Resident’s emotional distress must be severe. See *Tessier v. Rockefeller*, 162 N.H. 324, (2011); *Morancy v. Morancy*, 134 N.H. 493 (1991).

“Actor” and **“by the Actor”** have the same meaning here as in Category A.

“Bodily injury” means any significant injury; e.g., an injury that is painful and obvious, or is of a type for which medical attention ordinarily would be sought. U.S. Sentencing Guidelines, § 1B1.1, app. note 1(B).

Other Abuse Category D—Physical Abuse with No Significant Injury; Reckless Conduct; Criminal Threatening; and Child Endangerment

This category of other abuse is based on an unjustified use of physical force by the Actor against the Claimant which causes no significant injury to the Claimant, during the period of Claimant’s residency at YDC. This category of other abuse is also based on conduct that constitutes reckless conduct, criminal threatening, or child endangerment.

“Reckless Conduct” means an incident in which the Actor recklessly engages in conduct which places or may place the Claimant in danger of serious bodily injury, as defined *supra*.

“Criminal Threatening” means an incident in which the Actor:

- (a) By physical conduct, purposely places or attempts to place the Claimant in fear of imminent bodily injury or physical contact; or
- (b) places any object or graffiti on the property of another with a purpose to coerce or terrorize the Claimant; or

(c) threatens to commit any crime against the property of another with a purpose to coerce or terrorize the Claimant; or

(d) threatens to commit any crime against the person of another with a purpose to terrorize the Claimant; or

(e) delivers, threatens to deliver, or causes the delivery of any substance the Actor knows could be perceived as a biological or chemical substance, to the Claimant with the purpose of causing fear or terror, or in reckless disregard of causing such fear or terror.

“Child Endangerment” means an incident in which the Actor knowingly endangers the welfare of the Claimant by purposely violating a duty of care, protection, or support owed to the Claimant, or induces the Claimant to engage in conduct that endangers his health or safety.

“Actor” and **“by the Actor”** have the same meaning here as in Category A.

Other Abuse Category E – Unlawful Strip Search OR Unlawful Restraint – Physical, Mechanical, or Pharmaceutical Restraint

This category of other abuse is based upon a YDC Actor subjecting a Claimant to an Unlawful Strip Search as defined *supra*. This category of other abuse is also based on an unjustified use of physical, mechanical, or pharmaceutical restraints by the Actor against the Claimant which lacked medical necessity and/or such process as was due under the circumstances. This category of other abuse includes all unjustified placements in physical, mechanical, or pharmaceutical restraints for unreasonably excessive durations or for reasons other than for legitimate penological purposes, such as for the safety and security of the resident or others, YDC, its staff, or other juveniles.

Other Abuse Category F – Unlawful Restraint – Placement in Isolated Confinement

This category of other abuse is based upon violation of the lawful operative policies and procedures concerning the extended use of unjustified isolated confinement. Isolated confinement also includes all placements in isolated confinement for an unreasonably excessive duration or for reasons other than legitimate penological purposes.

For purposes of determining whether conduct constitutes unjustified isolated confinement, the following guidance should be followed:

Isolated confinement, sometimes also known as “room confinement,” “out of community confinement,” and “solitary confinement,” means the placement of a resident in a room with minimal or no contact with persons other than juvenile detention facility staff and attorneys.

Isolated confinement may take place in a resident's assigned room, or it may take place in a separate room used specifically for that purpose.

Isolated confinement may but need not involve practices such as removing most objects from the room, including the resident's clothing, and restraint of the resident, when necessary and appropriate to the purpose of the isolated confinement.

There are some circumstances in which confinement of a resident in a room may be justified. By way of example, confinement to a room may be used to calm a resident who is exhibiting seriously disruptive or dangerous behavior. It may also be used to protect residents from self-harm, hurting others or causing significant property damage. Isolated confinement that is compensable under this category of abuse does not include confinement for such protective or medical purposes, unless sustained for an unreasonably long duration under the circumstances. Confinement used for these purposes should be terminated once it becomes reasonably certain that the necessitating circumstances have passed.

Attitudes about the practice of utilizing confinement in juvenile detention facilities have varied over time. To determine whether isolated confinement is justified in a given case, the then-applicable law and facility policies and procedures and whether they were substantially followed must be considered, provided, however that compliance with policies and procedures is not dispositive if the confinement was either for an excessive duration or for reasons other than legitimate penological purposes.

Step Two: Determining and Applying a Frequency Multiplier

The Frequency Multiplier is a number. It is determined from the Tables of Adjusted Frequencies and Frequency Multipliers below. The Frequency Multiplier is used to increase the Base Award for victims of multiple incidents of abuse.

To apply the Frequency Multiplier to the Base award, multiply the Base Award by the Frequency Multiplier. This is a Claimant's Frequency Adjusted Base Award.

Table 3 – Frequency Multiplier Table

Adjusted Frequency	Frequency Multiplier
One	1
Two to Five	3
Six to Nine	7
Ten or more	12

To determine the Frequency Multiplier, it is first necessary to determine an Adjusted Frequency. This is done by averaging and adding the number of incidents from several categories of abuse, as follows:

For sexual abuse, add the number of incidents of the highest compensated category of abuse claimed plus half the number of incidents for each of the next two categories (even if the number of incidents is zero). Incidents in any additional categories are not counted.

For other abuse add the number of incidents of the highest compensated category of abuse claimed plus half the number of incidents for the next category (even if the number of incidents is zero). Incidents in any additional categories are not counted. In determining the Frequency Multiplier for claims of Other Abuse, incidents of Category F – Unlawful Restraint – Placement in Isolated Confinement shall not be considered; instead, such Category F incidents shall be compensated at a rate of up to \$300 per day, not to exceed \$100,000 total and subject to the \$250,000 maximum for other abuse.

Step Three: Applying Any Applicable Aggravating Factors

Aggravating Factors, where applicable, may increase the value of a Claim. The following tables identify the Aggravating Factors that may increase the amount of compensation to be awarded from the Fund and describe the amount to be added:

Table 4 – Aggravating Factors for Claims of Sexual Abuse

Aggravating Factor	Amount Added
Sexual abuse resulting in pregnancy	\$200,000
Sexual abuse resulting in a sexually transmitted disease (STD)	\$100,000
Photographs or video recording were taken during an incident of abuse	\$125,000
A greater impact of the sexual abuse on the claimant relative to others similarly situated	\$25,000
Different Actors commit separate incidents (applies only if more than one assault)	Base Award x .5
Duration (continuous course of conduct extending more than 12 months)	Base Award x .5
Youthful Claimant at time of at least one incident (under the age of 13)	Base Award x .25
Claimant was subjected to multiple forms of sexual and other abuse simultaneously, including unjustified isolated confinement	Base Award x .25
Simultaneous physical participation by more than one Actor in a single incident	Base Award Amount of the multi-actor incident x .5
Use of deadly weapon during an incident	Base Award Amount of the incident involving a deadly weapon x .5
During at least one incident, an additional Actor observed, stood by or acted as a lookout during an incident	Base Award Amount of the incident with such an additional actor x .25

Table 5 – Aggravating Factors for Claims of Other Abuse

Aggravating Factor	Amount Added
Other abuse resulting in suicide attempt by the Claimant while at YDC	\$25,000
Other abuse inflicted in retaliation or as punishment for refusal to submit to sexual advances	Base Award x .25
Other abuse accompanied by unjustified out of community confinement for 7 or more days	Base Award x .25
Simultaneous physical participation by more than one Actor in a single incident	Base Award Amount of the multi-actor incident x .5
A greater impact of the other abuse on the claimant relative to others similarly situated	\$2,500

Guidance regarding selected aggravating factors which may apply to a Claim is explained below.

The Administrator, in their sole discretion, may increase the overall award to compensate for egregious sexual abuse. Incidents of sexual abuse that were not counted by the Administrator in determining the Frequency Multiplier may nonetheless be considered in determining whether a claimant was subjected to egregious sexual abuse. All considerations of the claim for purposes of making an award for egregious sexual abuse will be evaluated by the Administrator in his or her sole discretion.

Use of Deadly Weapon

For purposes of determining whether conduct constituting sexual abuse is aggravated by use of a deadly weapon, such that a Claim award should be increased, “**deadly weapon**” means any firearm, knife or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.

Step Four: Take into Account Any Mitigating or Exceptional Factors

Mitigating Factors are circumstances which may reduce the value of a Claim. They do not need to be addressed by the Claimant. The amount of the reduction to be applied for a particular Mitigating Factor is not specified in these Guidelines due to the nature of the Mitigating Factors. In a particularly clear case, such as in the event of a prior settlement and release, a Mitigating Factor may reduce the value of a Claim to zero.

Exceptional Factors are circumstances not accounted for in any other way under these Guidelines. Exceptional Factors may justify increasing the value of a Claim by up to one half of the Base Award. Application of this adjustment should be reserved for a Claimant who has suffered extraordinary harm, or harm that is significantly greater than the harms suffered by all survivors of abuse. The Claimant is given an opportunity to describe any such circumstances in the Claim Form but is not asked to suggest an additional award amount.

Mitigating and Exceptional Factors should be taken into consideration by the AG Designee and the Administrator in arriving at an award, recommendation, or position concerning a Claim.

The following guidance is provided regarding how Mitigating Factors should be considered.

Issues of Credibility

It is acknowledged that sexual abuse and physical abuse are traumatic events which can affect a victim's ability to recall details clearly. It is also acknowledged that memory of the details of traumatic events can sometimes be regained over time. It is also acknowledged that due to past trauma, and the potential for re-traumatization through recall, victims may only become able to discuss details of their abuse after the passage of time and may not become comfortable sharing all details at a single time. Therefore, the fact that a victim has not previously disclosed or has only partially disclosed the details of incidents which now form the basis for a Claim shall not, standing alone, be considered as a reason for denial or reduction of a Claim.

Understanding these facts about victims, if the totality of the circumstances surrounding a Claimant's description of events (which may include how and when details were recalled and disclosed by Claimant, as well as statements made by persons other than Claimant, comparisons with information contained in records, and any other matters typically considered as bearing on credibility) indicates a Claim is based on statements lacking in credibility, a Claim may be denied or the amount reduced, on that basis.

Problems of Proof

The degree of proof needed to support a Claim, an element of a Claim, or a defense will depend upon the nature of the Claim and should generally comport with what proof might be reasonably expected to exist in each instance. A Claim may be denied, or the amount reduced where reasonably expected proof is lacking to such a degree that it calls into question the legitimacy or veracity of the Claim or element.

Legal Issues Including Defenses

The Claims Process is designed to be an alternative to litigation. The amounts which may be awarded from the Fund have been developed with consideration given to the fact that by participating, a Claimant will largely avoid having to litigate issues of law that would otherwise be raised in a court case or controversy. Therefore, to the extent that issues of law exist and would apply to all Claimants equally, simply by virtue of the nature of the Claims, generally, they shall not be considered as Mitigating Factors. To the extent that there are legal issues that are factually unique to a Claim, they may be considered and may form the basis to deny or reduce a Claim or to reject a defense. The more common legal issues which may be raised are discussed below.

Comment Regarding Law Applied, Generally

Except where expressly contradicted by the Statute or by the Guidelines, it shall be presumed that the law as it exists today also existed at the time of the incidents giving rise to the Claim. However, to the extent not expressly contradicted by the Statute or by the Guidelines, the parties may raise, and the Administrator may consider, the law and standards applicable at the time of the incidents, if it can be demonstrated that prior applicable law would require a different result than current law.

Limitations

This Mitigating Factor may apply to Claims of Sexual Abuse only where it can be demonstrated that the Claimant had actual knowledge regarding the potential to file a Claim during the applicable limitations period and failed to do so. This standard shall be applied to the exclusion of otherwise applicable law.

This Mitigating Factor may be applied to Claims of Other Abuse, both involving and not involving unlawful strip searches, according to applicable law.

Laches

This Mitigating Factor may only apply to Claims of Other Abuse, both involving and not involving unlawful strip searches; and when applied, shall apply according to applicable law.

Justification/Privilege

Justification, as applicable to the definition of Other Abuse, and as applicable to placement in isolated confinement as an Aggravating Factor, is already provided for in relation to each of those topics.

Conduct which would constitute Sexual Abuse should not generally be subject to a defense of justification or privilege, except as articulated in the definitions applicable to Sexual Abuse Categories D and E, such as in the case of touching necessitated by medical treatment or use of surveillance cameras for security or law enforcement purposes.

To the extent a defense of justification or privilege might apply which is not already contemplated by these definitions, whether or not it constitutes a Mitigating Factor will be governed by applicable law.

Failure to Utilize Available Grievance Procedures or Other Means of Redress, Concealment

This Mitigating Factor may apply when the Claimant knew or reasonably should have known of the availability of legitimate procedures in place or other legitimate means by which abuse could have been addressed, and either (1) made a deliberate choice not to utilize those procedures or means, or (2) actively concealed the abuse, thwarting the effectiveness of such procedures.

Absence of Harm

The nature of this Claims Process is such that, in general, Claims will be approved in a liquidated amount. Harm to a Claimant from abuse is presumed, and a Claimant need not offer proof of specific harm in order to receive compensation. However, an extraordinary lack or the absence of any harm or suffering on the part of the Claimant may be considered as a Mitigating Factor.

Other Causes of Harm Suffered

To the extent that extraordinary harm or suffering, claimed as the basis for an increased award, may be traced to another source, that circumstance may also be considered as a Mitigating Factor.

Waiver, Accord and Satisfaction, Release

This Mitigating Factor may apply where a Claimant has previously relinquished the right to pursue a Claim in exchange for consideration. This Mitigating Factor may be considered even if the consideration received is significantly less than the amount which would otherwise be awarded from the Fund.

Final Steps: Determine the Requested, Recommended, or Final Claim Award Amount

Adding the Frequency Adjusted Base Award (from Step Two) plus the Total of any Aggravating Factors (from Step Three) should result in the Claimant's requested Claim amount for each type of abuse.

The AG Designee and the Administrator will utilize the same method but may arrive at a different amount due to differences in the selection of categories and factors. Additionally, the AG Designee and the Administrator may make adjustments for any Mitigating or Exceptional Factors (from Step Four).

Amounts which exceed the statutory caps for payment from the Fund will then need to be reduced to the cap as follows:

- **For claims involving other abuse only:** An award to a Claimant for a claim involving other abuse only shall not exceed \$250,000.00 in total. Claims of isolated confinement may be valued at no more than \$300 per day, and no individual claimant shall be paid more than \$100,000 in settlement of all incidents of isolated confinement, and said payment shall be subject to, and not in addition to, the limits established hereunder for other abuse.
- **For claims involving both sexual abuse and other abuse:** An award to a Claimant for a claim involving both sexual abuse and other abuse, but not egregious sexual abuse, shall not exceed \$1,500,000.00. In an award for such a claim, the portion of the award for other abuse shall not exceed \$250,000.00.
- **For claims involving egregious sexual abuse:** An award to a Claimant for claims involving egregious sexual abuse may not exceed \$2,500,000.00 in total. In award for such a claim, the portion of the award for other abuse, if any, shall not exceed \$250,000.00.

EXHIBIT A-4

NEW HAMPSHIRE YOUTH DEVELOPMENT CENTER CLAIMS
ADMINISTRATION AND SETTLEMENT FUND
John T. Broderick, Jr., Administrator

Sample Claim Form

Claim Details

Claim Number: _____

Created Date: _____

***Do you have an Attorney in this matter?** Yes No

***Name of Law Firm:** _____

IF YOU HAVE AN ATTORNEY FOR THIS CLAIM, PLEASE STOP AND ENSURE THAT YOUR ATTORNEY COMPLETES AND SUBMITS THIS CLAIM FORM FOR YOU. We will only correspond with your attorney if you are represented. Attorney information will be entered at the end of the Claim form in the Reporter section.

***Did you already file a Notice of Claim with us?** Yes No

This is NOT a required step in order to file a claim, but you must acknowledge if you sent us such a Notice at any time prior to filing this Claim.
A sample Notice of Claim is on the YDCCA website if you need guidance on this document and its purpose.

Claimant Name and Contact Information

***Claimant First Name:** _____

Claimant Middle Name: _____

***Claimant Last Name:** _____

***Other Names used by Claimant:** Yes No

Claimant Other First Name Used (if any): _____

Claimant Other Middle Name Used (if any): _____

Claimant Other Last Name Used (if any): _____

Claimant Nickname Used (if any): _____

***Claimant Gender:** Male Female

***Claimant Date of Birth:** _____

Please enter your date of birth as MM/DD/YYYY

***Claimant Social Security Number:** _____

Claimant A-number (also known as a
CIS #or Alien Registration number) _____
if you have one:

***Claimant Street Address:** _____

Apartment or Unit #: _____

***Claimant City:** _____

***Claimant State:** _____

***Claimant Zip Code:** _____

Claimant Email: _____

Claimant Preferred Contact phone number: _____

May voicemail messages be left: Yes No

***How do you prefer we communicate with you?** EMAIL MAIL PHONE

Email communication is preferred for efficient processing of your Claim

***Are you currently residing at a department
of corrections facility:** Yes No

***If yes, which corrections facility:** _____

***Do you have a Trusted Contact in case we
cannot reach you:** Yes No

▶ A Trusted Contact is someone that we can communicate with about your claim, if you do not have an attorney. It is not your attorney.

***Trusted Contact First Name:** _____

***Trusted Contact Last Name:** _____

Trusted Contact Address: _____

Trusted Contact Phone: _____

Trusted Contact Email: _____

*Trusted Contact Relationship: _____

Eligibility for Compensation from the Fund

The next series of questions relate to your eligibility to file a Claim for recovery under the YDC Settlement Fund. You also will need to provide a Statement of Eligibility. It is important to provide any supporting documents for Eligibility, if you have them. There are Instructions available.

Please list the YDC Facility/Facilities where you were committed or detained:

***When were you in each YDC Facility? Please separately list time frames if multiple facilities:**

Provide dates as best you remember

***How old were you when you first arrived at any YDC facility:** _____

***Do you recall cottage(s) or wing(s) that you lived?** Yes No

Name of Wing(s) or Cottage(s): _____

***Were you subjected to sexual, physical, and/or other abuse while in a YDC facility?** Yes No

***What information are you providing to affirm your status as a Former YDC Resident:**

****Please select all that apply:***

- | |
|---|
| <input type="checkbox"/> Your recollection, in your written narrative |
| <input type="checkbox"/> Resident File |
| <input type="checkbox"/> Other Documents |

***Have you filed any lawsuits against the State, or any persons, organizations or entities related to the sexual or physical abuse you suffered:** Yes No

Provide initial filing date of lawsuit: _____

Provide docket number: _____

Provide caption name of lawsuit: _____

Plaintiff Pseudonym: _____

Provide your court pseudonym if you have one, such as "John Doe #1".

***Have you received any settlements (any money) from the State of New Hampshire, or any other person, organization, or entity related to the sexual or physical abuse you suffered:** Yes No

If you answer Yes, please provide details in your narrative.

Information about the Abuse You Suffered

***Are you making a claim for sexual abuse:** Yes No

Sexual Abuse

The next series of questions asks how many times you were sexually abused by or because of a staff member. For information on the categories and definitions of sexual abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide as much detail as you can for each time you were sexually abused.

Category A – Anal or Genital Rape: Yes No

- ***Please estimate the number of times Category A sexual abuse happened:** _____

Category B – Oral Rape: Yes No

- ***Please estimate the number of times Category B sexual abuse happened:** _____

Category C – Intimate Sexual Touching (Masturbation): Yes No

- ***Please estimate the number of times Category C sexual abuse happened:** _____

Category D – Other Touching (Groping): Yes No

- ***Please estimate the number of times Category D sexual abuse happened:** _____

Category E – Conduct Creating a Reasonable Apprehension of Sexual Abuse, or Conduct Constituting Indecent Exposure, Lewdness, or Violations of Privacy:

Yes No

- ***Please estimate the number of times Category E sexual abuse happened:** _____

***Does your Claim include incidents of Egregious Sexual Abuse:** Yes No Don't Recall

If yes, please provide details in your written narrative

***How many times were subjected to other sexual abuse, to the best of your recollection:** _____

Other forms of sexual abuse should be described in your written narrative.

***In what years did the sexual abuse events occur, to the best of your recollection:** _____

Your written narrative is the place to provide any details that you recall.

***How old you were you when the sexual abuse first occurred:** _____

***Who sexually abused you? Please list any names or nicknames you recall, and what their roles were at the facility:** _____

Your written narrative is the place to provide any details that you recall. Examples of roles at the facility include staff member, volunteer, or other resident. You can write 'Don't Recall' if you don't remember.

***Did anyone witness (see or hear) any incident of sexual abuse:** Yes No Don't Know

List any witnesses to your sexual abuse, if you recall names. _____

Include contact information if available: _____

***Did you tell anyone about any sexual abuse incident:** Yes No Don't Recall

Person(s) you told about your sexual abuse: _____

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were sexually abused at any time: Yes No

Did the sexual abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

You have completed the section on Sexual Abuse. Please provide details in your written narrative to the best of your recollection, including for all questions where you answered 'Yes'.

***Are you making a claim for other abuse, for incidents that occurred separately of sexual abuse:** Yes No

Note: Only events of Other Abuse that were separate from the events of sexual abuse (if any) may be claimed in this section.

Other Abuse

This category was formerly named 'Physical Abuse' and still includes physical abuse questions.

The next series of questions asks how many times you were subject to Other Abuse by or because of a staff member. For information on the categories and definitions of Other Abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide details for each time you were subject to Other Abuse.

Category A – Other resulting in permanent or life-threatening bodily injury: Yes No

- ***Please estimate the number of times Category A other abuse happened:** _____

Category B – Other resulting in serious bodily injury: Yes No

- ***Please estimate the number of times Category B other abuse happened:** _____

**Category C – Other abuse resulting in Yes No
bodily injury or intentional infliction of emotional distress:**

- ***Please estimate the number of times
Category C other abuse happened:** _____

**Category D – Other abuse with no Yes No
significant injury: reckless conduct; criminal threatening; child
endangerment:**

- ***Please estimate the number of times
Category D other abuse happened:** _____

**Category E – Unlawful strip search or unlawful restraint by means of physical,
mechanical, or pharmaceutical restraint: Yes No**

- ***Please estimate the number of times
Category E other abuse happened:** _____

**Category F – Unlawful restraint by means of placement in isolated
confinement: Yes No**

- ***Please estimate the number of times
Category F other abuse happened:** _____

***In what years did the other abuse events occur,
to the best of your recollection:** _____

Your written narrative is the place to provide any details that you recall.

***How old were you when other abuse first occurred:** _____

***Please list any names or nicknames you recall of
persons who subjected you to other abuse
and what their roles were at the facility:** _____

Your written narrative is the place to provide any details that you recall. Examples of roles include staff member, volunteer, or other resident.

***Did you suffer any injury or permanent impairment Yes No
from the other abuse, you are reporting:**

Examples could include a black eye, a broken leg, or brain damage. Please provide details in your narrative.

*** Did anyone witness any incident of other abuse: Yes No Don't Know**

List any witnesses to other abuse, including physical abuse, if you recall names. Include contact information if available: _____

You can give more details about witnesses in your narrative.

***Did you tell anyone about other abuse:** Yes No Don't Know

Person(s) you told about other abuse, including physical abuse: _____

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were subject to other abuse at any time: Yes No

If you answer Yes, please provide details in your narrative.

Did the other abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

If you answer Yes, please provide details in your narrative.

You have completed the section on Other Abuse. Please provide details in your written narrative to the best of your recollection, including for any questions where you answered 'Yes'.

Additional Information to Support Your Claim

***Do you wish to provide testimony under oath in a live resolution proceeding, or do you prefer to have your Claim decided based solely on the written submissions:**

- Live testimony in a resolution proceeding
- Written Submission only

***Will you be providing a written impact statement with your Claim:** Yes No

To the best of your ability, it will be helpful if you describe the impact that the abuse has had on you, including any extraordinary circumstances or harm that you have suffered.

***Have you received any treatment or services (such as medical treatment, counseling, addiction recovery, religious or spiritual services) because of the abuse you suffered:** Yes No

If you answered 'Yes', please describe the treatment/services, the providers, and dates of treatment/services. You may also provide records.

***Do you believe that additional or other treatment or services would be helpful to you:** Yes No

If you answer Yes, please tell us more in your narrative.

Your Claim Amount

To determine the amount of your Claim under the Guidelines, you may either complete the optional Claim Worksheet or you may Estimate the amount of your Claim. If you enter an amount greater than the total cap allowed by statute, then your Claim will be treated as a Claim for that statutory cap.

Did you use the optional Claim Worksheet to calculate your Claim Amount:

Yes No

If 'Yes', please include the Worksheet with the support documents you send us.

***Total Claim Amount:** _____

***How much of your Total Claim Amount is for Sexual Abuse:** _____

Enter 'o' if none.

***How much of your Total Claim Amount is for Other Abuse:** _____

Enter 'o' if none.

***If you used the Claim Worksheet, does your Total Claim Amount include aggravating factors from the Worksheet:**

Yes No

Verification and Oath

You are required to submit your Claim with a completed and notarized form that confirms (1) you have read and agree to a list of important statements and (2) you have read the information in the Claim and all attachments and submit it under oath upon penalty of perjury.

***Is the Claimant providing a completed and notarized form for Verification and Signature & Oath and Acknowledgement:**

Yes No

Attestation

You are required to Attest to who is submitting this Claim for the Claimant. There are three options. Select 'Yes' when you see the correct option. Select 'No' to take you to the next of the three options.

*** Is the Claimant's attorney submitting and signing this Claim on behalf of the Claimant:** Yes No

****If yes:***

*** Individual Attorney Full Name:** _____
Your typed name is your attorney signature on this Claim, in representing the Claimant.

*** Attorney Date Signed:** _____

*** I affirm as the Claimant's attorney that I assisted in preparing this Claim and my fee affidavit is accurate. I will be providing my fee agreement or engagement letter, and my fee affidavit as attachments.:**

***If no, Is the Claimant submitting and signing this Claim on their own behalf:** Yes No

***Claimant Name for Attestation:** _____
By entering your name you are electronically signing this claim form.

***Claimant Attestation Date:** _____

*** If no, Is the Claimant's Guardian or Conservator submitting and signing this Claim on behalf of the Claimant:** Yes No

*** Claimant's Guardian/Conservator Full Name:** _____

***Claimant's Guardian/Conservator Date Signed:** _____

***I, as the Claimant's guardian/conservator, affirm that I assisted in preparing this claim, and court documentation of my appointment will be included with the Claim's supporting documents:**

***Reporter(the reporter is the person submitting the claim):**

***First Name:** _____

***Last Name:** _____

***Who is the authorized Reporter of this Claim?:**

- Claimant**
- Claimant's Attorney**
- Claimant's Guardian/Conservator**

SAMPLE

SAMPLE

EXHIBIT A-5

FORM – Claims Administration for YDC Settlement Fund
Notarized Attestation of Claimant
Verification and Signature for YDCCA Claim

The Claimant must read and agree to each of the statements below as a requirement to filing a Claim. Please **check each box** to indicate your agreement and then sign this form in front of a notary or Justice of the Peace.

- I have filed a Claim with the NH YDC Claims Administrator for recovery under the YDC Settlement Fund. I attest that I am eligible to file such a Claim.

- I have been advised through the Claim Instructions that I may consult with an attorney regarding my decision to submit a Claim.

- I understand that any pending lawsuit related to sexual, physical or other abuse I have against the State of New Hampshire and its departments and employees will be stayed (paused) while my Claim is processed (except as to anyone who directly and personally abused me or as to claims not covered by the Fund).

- I understand that my Claim will be reviewed by the Attorney General Designee and the Administrator and that any final amount I am offered may be different from the amount I have claimed.

- I understand that if I deliberately submit a false Claim, a referral about me may be made to an appropriate law enforcement agency.

OATH AND ACKNOWLEDGEMENT

I have reviewed the information in the Claim Form and all attachments. I hereby declare under oath, upon penalty of perjury, that the information I have provided in the Claim and all attachments and any information that I submit in support of my Claim is true and correct to the best of my knowledge and belief.

Date: _____

Signature: _____
Sign in front of Notary

(printed name of Claimant)

STATE OF _____
COUNTY OF _____

Before the undersigned officer, _____ (_____) (claimant, guardian, conservator) **personally appeared** on this ____ day of _____, 20__, **and provided** satisfactory evidence of government-issued identification that contains Claimant's photo (ID type: _____) as the person whose name is signed on this **Notarized Attestation of Claimant, and acknowledged** to me that he/she signed it voluntarily for its stated purpose to acknowledge the foregoing attestations to be true and accurate to the best of his/her knowledge and belief.

Date: _____

Notary Public/Justice of the Peace

My Commission Expires: _____

(seal)

EXHIBIT A-6

New Hampshire Youth Development Center Claims Administration and Settlement Fund

CLAIMANT'S STATEMENT OF COMPLETION

Statement of Eligibility - Information for Claim

As part of your **Claim Submission Checklist**, it is required that a claimant submit a **Statement of Completion** form listing all materials submitted for the Claim; identifying the efforts taken to locate supporting documentation; and affirming that the Claim Packet includes all information the claimant wishes to submit to the Administrator and is administratively complete.

SUBMISSION CHECKLIST

Please check off each item below that you have submitted:

- Your Claim Form**
 - Signed under oath by you and by your attorney if you have one
 - **Claimant Addendum to Claim Form** (for a claim filed as of 8/31/2024 & opted to provide additional information for a claim given the 6/14/2024 legislative amendment)
- Your Written Narrative**
 - To provide additional details, as guided by the Claim Form.
 - A guidance list is available in the Claim Packet to help you.
- Claimant's Notary Attestation**
- Claimant's Resident File to help support eligibility (if available)**
 - And/or, other supporting documents for eligibility (if available)
- Information for Resolution Proceeding form**
 - To help staff schedule your resolution proceeding.
- Notice of Filing of Claim and [Partial] Stay (for any existing related lawsuit)**
 - Completed and signed
- A copy of an Identification Document**, such as:
 - Claimant's driver's license
 - A government-issued ID card that contains Claimant's photo
 - Claimant's passport
 - A substitute form of identification acceptable to the Administrator
- Your optional Claim Worksheet** (if you used one)
- Any other **supporting documentation** you want to provide, with a reference sheet
 - Suggested information is listed in the *Claims Process for Administration of the YDC Settlement Fund*
- Form of Payment – Assessment of Claimant Circumstances** (required information to submit at intake or with pre-hearing submissions)
- A Statement of Completion**
 - To inform claims administration staff that your Claim is ready for processing
 - **A Statement of Eligibility and Information for Claim**

ELIGIBILITY AS A FORMER YDC RESIDENT

A person must be a living, former YDC Resident to be eligible to file a claim for abuse under the Settlement Fund.:

The claimant must provide a written statement of eligibility for the Administrator’s evaluation that identifies information relied on for asserting **Eligibility**.

Please list: (1) the location(s) of residency; and (2) the reason for state custody during the time frame of abuse events.

Please identify: whether eligibility is based on: (1) the person’s recollection alone, (2) supporting documents (such as a resident file or court documents), or (3) both recollection and supporting documents.

INFORMATION FOR CLAIM

The claimant should provide supporting documents or records (if available), and at a minimum, the claimant must identify efforts taken to locate and obtain supporting documents (such as attempts to obtain residency files, court records, medical files, etc.). The claimant should list the supporting documentation provided. This statement can be completed as a separate attachment.

The *Guidelines for Valuing Claims for Settlement Purposes* govern how claims of abuse will be valued and paid from the YDC Settlement Fund. One factor identifies Problems of Proof as a mitigating factor for a claim:

“The degree of proof needed to support a Claim, an element of a Claim, or a defense will depend upon the nature of the Claim and should generally comport with what proof might be reasonably expected to exist in each instance. A Claim may be denied or the amount reduced where reasonably expected proof is lacking to such a degree that it calls into question the legitimacy or veracity of the Claim or element.”

NOTICE: Administrative review of a claim will not begin until a Statement of Completion is received and identified in a Claim filing.

By signing this form, I, _____, affirm that (1) I am a former YDC resident who is eligible for compensation from the YDC Settlement Fund and (2) I am including all of the information that I wish to submit, my Claim is administratively complete, and ready to be processed.

Claimant Name: _____

Claim Number (if you have one): _____

Claimant’s Date of Birth: _____

Claimant’s Signature: _____

Date: _____

EXHIBIT A-7

**STATE OF NEW HAMPSHIRE
SUPERIOR COURT**

_____, ss

Case No. _____

Your name/pseudonym: _____

v.

N.H. Department of Health and Human Services, et al.,
(YDC and YDSU cases)

NOTICE OF FILING OF CLAIM AND [PARTIAL] STAY

I, [insert your name] _____, hereby notify the Court that I have filed a Claim with the Administrator of the YDC Settlement Fund. I understand that the Administrator will complete the Certification on page 2 and that this Notice will be filed with the Court.

I further understand that when this Notice is filed with the Court, my lawsuit will automatically be stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) my lawsuit is not automatically stayed, and I may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim under N.H. RSA 21-M:11-a, and (ii) my lawsuit is not automatically stayed as to, and I may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of me, even if that individual was a state employee at the time. N.H. RSA 21-M:11-a VII(e).

I further understand that if I continue to pursue relief against any such direct, personal individual perpetrator or as to allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim while my case is otherwise stayed as against the State Defendants, that will not preclude the State Defendants from conducting discovery or other litigation activities that duplicate activities conducted or undertaken during the period of the

State stay, when and if the State stay is lifted in the event that my Claim is not resolved in the Settlement Fund Claim Process.

Your signature (or attorney's signature on Claimant's behalf): _____

Your printed name/pseudonym: _____

Date signed: _____

CERTIFICATION OF ADMINISTRATOR

I, [name of Administrator] _____, duly appointed Administrator of the YDC Settlement Fund, hereby confirm and advise the Court that I have received a Claim from [name] _____ (“Claimant”) on [date] _____. I further advise the Court, that pursuant to N.H. RSA 21-M:11-a VII(e), upon filing of this Notice, the above captioned lawsuit should be automatically stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) this action should not be automatically stayed, and Claimant may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of the Claim under N.H. RSA 21-M:11-a, and (ii) this action should not be automatically stayed as to, and Claimant may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of Claimant, even if that individual was a state employee at the time.

Signed: _____

Date: _____

EXHIBIT A-8

NOTICE OF CLAIM

Submit this optional form to the Claims Administrator if you intend to submit a claim for compensation from the YDC Settlement Fund.

Name: _____ Date of Birth: ___/___/___

Address: _____

E-mail: _____ Phone: _____

Do you have an attorney? Yes No

If yes, list attorney's name, firm name, e-mail address, and phone number:

Are you alleging that you suffered sexual abuse at YDC? Yes No

**see RSA 21-M:11-a, I(m) for definition of "YDC" and related facilities and RSA 21-M:11-a, I(j) for definition of "sexual abuse"*

Are you alleging that you suffered egregious sexual abuse at YDC? Yes No

**see RSA 21-M:11-a, I(m) for definition of "YDC" and related facilities and RSA 21-M:11-a, I(e) for definition of "egregious sexual abuse"*

Are you alleging that you suffered other abuse at YDC? Yes No

**see RSA 21-M:11-a, I(m) for definition of "YDC" and related facilities and RSA 21-M:11-a, I(i) for definition of "other abuse"*

Submit this form to the Claims Administrator via e-mail to claims@ydcclaims.nh.gov or via mail to P.O. Box 1930, Concord, N.H. 03301. Send a copy to the Attorney General at YDCClaimsProcess@doj.nh.gov or 1 Granite Place South, Concord, N.H. 03301.

You must submit your completed claim form within sixty (60) days after submitting this Notice of Claim to the Claims Administrator.

Signature of Claimant: _____ Date

Signature of Attorney (if applicable): _____ Date

OFFICIAL USE ONLY – DO NOT COMPLETE

Date Received: _____ Claim Number: _____

EXHIBIT B

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

Diane Nicolosi
Assistant Administrator

Public Bulletin - Letter from Administrator Broderick June 30, 2025

In October 2022, I was asked to serve as Youth Development Center claims administrator by both the attorney general and claims' counsel, and I agreed to do so as appointed by the Supreme Court. Since then I have served for more than two and a half years, issued nine quarterly reports, and fully cooperated with an Audit Division review resulting in a June 2025 final report with high marks. It has been a privilege to serve.

House Bill 2 was signed into law by the Governor on Friday, June 27, 2025. As approved by the Legislature and the Governor, HB2 includes additional appropriations for the Settlement Fund, as well as several material amendments to the YDC Settlement Fund statute, 21-M:11-a.

For appropriations, HB2 provides \$20M for additional FY26 funding and further anticipates funding in FY27 contingent on the sale of certain state property.

For statutory amendments, HB2 provides:

- **Amendment to Section III** – striking out the supreme court as the appointing authority for the youth development center claims administrator who could be removed only for good cause, and instead granting the governor, with consent of the executive council, the authority to appoint the claims administrator to serve at the pleasure of the governor.
- **Amendment to Section XV** – adding a requirement that when a claimant's award is to be paid in periodic payments, then the attorney's fees for the claim must be paid for the same number of years in equal payments.
- **Amendment to Section IX(e)** - adding a requirement that both the claimant and the AG designee, rather than only the claimant, must affirmatively accept the claims administrator's decision regarding the claim in order for the decision to be final and binding.
- **Amendment to Section XVI** – adjusting reporting to government leaders to occur on a monthly rather than quarterly basis and also authorizing the joint fiscal committee to require ad hoc reporting.

The amendment to Section III ends my term as a Judicial Branch appointee and begins a new term with an Executive Branch appointee. The amendment to Section IX(e) ends my appointed authority to provide an arbitration decision after a resolution proceeding that is binding solely at the claimant's choice to accept the decision or withdraw from the administrative claims process.

P.O. Box 1930, Concord, NH 03302-1930

Phone: 603-415-2136

Fax: 603-798-3420

email: claims@ydcclaims.nh.gov

www.ydcclaims.nh.gov

June 30, 2025

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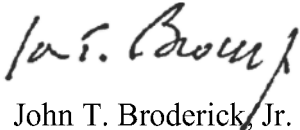
The decision was made by government leadership, not by me, to amend the statute in a manner that ends my post appointed by the supreme court. It is my responsibility to follow the law.

The amendments become effective July 1, 2025. Therefore, we are entering a transition period. During this transition period to a new Executive Branch appointee, I am available to serve in some capacity to keep claims processing stable and moving forward as possible. There are open questions about how the transition period will take place. I anticipate that the Executive Branch and Judicial Branch will work toward addressing open questions so that the transition can be as smooth as possible.

The current claims administration team of Judicial Branch employees and consultants is an exceptional group. They will be on hand to assist in transition as well. Whether this team will be part of a restructure under a new Executive Branch appointee is unknown to me at this time.

As updates become available, an appropriate person will share them at the appropriate time.

Best regards,

A handwritten signature in black ink that reads "John T. Broderick, Jr." with a stylized flourish at the end.

John T. Broderick, Jr.

Administrator

New Hampshire Youth Development Center
Claims Administration and Settlement Fund

EXHIBIT C

YDC fund administrator warns new N.H. law will remove him, amid concerns of fairness

His successor will serve “at the pleasure of the governor.” But in this case, it’s a state agency accused of wrongdoing.

By [Amanda Gokee](#) Globe Staff, Updated June 30, 2025, 2:15 p.m.



FILE - The Sununu Youth Services Center in Manchester, N.H., stands among trees, Jan. 28, 2020. A New Hampshire jury awarded \$38 million to the man who blew the lid off abuse allegations at the state's youth detention center Friday, May 3, 2024, in a landmark case finding the state's negligence allowed him to be beaten, raped and held in solitary confinement as a teen. (AP Photo/Charles Krupa, File) CHARLES KRUPA/ASSOCIATED PRESS

CONCORD, N.H. – When Governor Kelly A. Ayotte [signed the state's biennial budget](#) into law last week, she also [approved a new provision](#) placing her in charge of hiring and firing the administrator of a settlement fund for victims of abuse at the state-run youth detention center.

That's raised concerns about fairness and a possible shake-up of leadership at the Youth Development Center Claims Administration and Settlement Fund.

The fund's current administrator, John T. Broderick Jr., said the attorney general informed him Monday afternoon that he can remain in the post through August, unless the governor appoints a replacement before then.

But Broderick said he can only stay if he retains final decision-making authority on the claims he hears.

Another measure in the budget gave Ayotte's attorney general the power to reject agreements the administrator made with victims.

Broderick said if the attorney general has veto power over his decisions, he would have to respectfully decline.

"I don't want to be an integral part of emotional and often gut wrenching confidential hearings where claimants recount abuse only to have my decisions rejected by the AG when an abused claimant would have accepted it," he said, adding that he is waiting to hear whether the attorney general accepts his condition.

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Broderick was appointed by the NH Supreme Court, but under the new law, the governor can replace him with a candidate of her choosing after securing Executive Council support.

The Supreme Court previously needed “good cause” to remove the administrator. The [new law](#) says Ayotte has the power to fire this person “at any time, as the administrator serves at the pleasure of the governor.”

Those changes prompted the [victims of abuse to file a class action lawsuit](#) last week, arguing the state was going back on its word, and that the updates fundamentally change the nature of settlement fund agreements in an unacceptable way by allowing a neutral arbiter to be replaced with a political appointee in a case where the state itself is the defendant.

The class action lawsuit filed by victims asked a superior court judge to grant a temporary restraining order to keep Broderick in the position until the court makes a ruling on the lawsuit. But Merrimack County Superior Court Judge John C. Kissinger Jr. denied that request in an order issued Friday, instead scheduling a hearing on the matter on July 8.

Broderick said he is anticipating a transition period after the governor appoints a new administrator.

Broderick was critical of what he called a fundamental redesign of the settlement system, after hundreds of victims had been enticed to file claims there instead of handling them through the courts, which had the potential to be even more costly for the state.

“The way it’s going to work now, it’s like a third world country,” he said.

“The CEO of the defendant, the state, is going to appoint the ‘judge,’ who can be removed at any time for any reason,” he said, referring to the administrator position. “And the CEO and the lawyer for the defendant gets to decide whether the judge’s decision is correct.”

A spokesperson for the governor and for the attorney general did not return a request for comment.

This story has been updated to include information Broderick said he received from the attorney general about remaining in the position through August.

Amanda Gokee can be reached at amanda.gokee@globe.com. Follow her [@amanda_gokee](https://twitter.com/amanda_gokee).

[Show comments](#)

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