

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATION
ASSOCIATION, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF EDUCATION, et al.,

Defendants.

Case No. 1:25-cv-00091-LM

**UNOPPOSED MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
LANDMARK LEGAL FOUNDATION IN SUPPORT OF DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Landmark Legal Foundation ("Landmark") respectfully moves this Court to file an amicus curiae brief in support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment. (Doc. No. 85-1.)

Landmark is a nonprofit organization committed to advancing principles of limited government and separation of powers. Consistent with this mission, Landmark's brief will aid in explaining how the Court does not have the equitable power to vacate the Dear Colleague Letter.

Federal district courts have authority to accept amicus briefs. *See League of Women Voters of New Hampshire v. Kramer*, 2024 U.S. Dist. LEXIS 195923, at *1 (D.N.H. Oct. 29, 2024). The court may consider amicus briefs "to the extent they may provide legal assistance in deciding the issues raised by the parties. *Id.* at *2.

Landmark's brief focuses on the history of equitable remedies and limitations placed on courts to utilize those remedies. Landmark argues that courts do not have the authority under the

Administrative Procedure Act (APA) to vacate non final agency actions that do not have the full force of law.

The parties have consented to the filing of this brief. Landmark's brief is timely filed because it is filed one day after the United States' brief was due and before Plaintiffs' reply brief is due. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation of submission of this brief. No person, other than Amicus Curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

For the foregoing reasons, the Court should grant this motion for leave to file an amicus curiae brief.

Respectfully submitted,

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Dated: July 18, 2025

CERTIFICATE OF SERVICE

I certify that on July 18, 2025, I electronically filed the foregoing with the Clerk of the Court using the Court's ECF system, which will automatically send email notification to all counsel of record.

/s/ Jacob M. Rhodes
Jacob M. Rhodes, Esq.