



State of New Jersey
COUNCIL ON LOCAL MANDATES
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Chair

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December 21, 2007

The Honorable Jon S. Corzine,
Governor
The Honorable Richard J. Codey,
Senate President
The Honorable Leonard Lance,
Senate Minority Leader
The Honorable Joseph J. Roberts, Jr.,
Speaker of the General Assembly
The Honorable Alex DeCroce,
Assembly Minority Leader

Pursuant to N.J.S.A. 52:13H-19, the Council on Local Mandates submits its Report to the Governor and the Legislature, enclosed with this letter.

Copies of this letter and the enclosure are being provided to the Secretary of the Senate, the Clerk of the General Assembly, the Office of Public Information, and the Office of State Librarian. Please do not hesitate to contact me if you have any questions regarding the Report.

Respectfully,



Janet L. Whitman, Chair

Hand del.

Enclosure – 2007 Report of the Council on Local Mandates
cc w/enc.: Ellen M. Davenport, Secretary of the Senate
Dana M. Burley, Clerk of the General Assembly
Office of Public Information
Office of State Librarian

REPORT OF THE COUNCIL ON LOCAL MANDATES
TO HON. JON S. CORZINE, GOVERNOR,
AND TO THE LEGISLATURE OF THE STATE OF NEW JERSEY

The Council statute provides, in pertinent part:

The council shall submit a report to the Governor and the Legislature prior to December 31 of each year setting forth the names and salaries of: the professional employees of council members, individuals employed by the council on a temporary or permanent basis, and personnel and consultants for whose service the council has contracted.

[N.J.S.A. 52:13H-19]

Accordingly, the Council reports the following information (as of December 15, 2007):

1. Professional employees of Council members: none.
2. Individuals employed by the Council on a temporary or permanent basis:¹

Patricia A. Meyer
Executive Administrator & Coordinator (full time position)
Salary: \$116,287 per annum.

Shawn D. Slaughter
Administrative Assistant (full time position)
Salary: \$38,685 per annum.

3. Personnel and consultants for whose service the Council has contracted: John M. Payne, Esq., who was paid on an hourly basis to assist the Council in legal research and writing related to the Complaint case that was filed and decided in 2007, for a total of \$7,719. In addition, the Council contracted with a provider of court reporter service, pursuant to State contract, for transcription at the Council hearing held in June 2007.

Attachment – Council Summary of 2007 Complaint Case Activity.

¹ Salary figures are as of July 7, 2007, and reflect a 6% increase effective on and after that date.

COUNCIL SUMMARY OF 2007 COMPLAINT CASE ACTIVITY

Complaints decided. In January and February 2007, four County Special Services School Districts filed Complaints with the Council alleging that a Department of Education regulation was an unfunded mandate in violation of the State Mandate, State Pay Amendment to the New Jersey Constitution (“Amendment”), as codified in the Local Mandates Act.¹ The regulation, N.J.A.C. 6A:14-4.7(a)(2), would have required the age span of students in elementary school special education classes be reduced from four years to three, beginning July 1, 2007 for the 2007-2008 school year.

The Council consolidated the four Complaints and directed that the Commissioner of the Department of Education file an Answer to the Complaints as Respondent. (I/M/O Complaints filed by the Special Services School Districts of Burlington, Atlantic, Cape May, and Bergen Counties, “Burlington Special Services”). The Council also granted leave to the New Jersey School Boards Association and the Joint Council of County Special Services School Districts to appear as amici curiae.

Respondent filed an Answer and a Motion to Dismiss the Complaints, arguing, among other things, that the mandate was permitted under two exemptions in the Amendment: the exemption for mandates required to comply with federal laws or rules and the exemption for mandates imposed on both government and non-government entities in the same or substantially similar circumstances.

The parties and amici filed written responses to Council questions about the relationship of the regulation to requirements of the federal No Child Left Behind Act and the Individuals with Disabilities Education Act, and about the applicability of the regulation to non-governmental entities that provide special education services. The Council heard oral argument on June 13, 2007, and directed Claimants to submit proofs regarding “additional direct expenditures” resulting from the regulation.

The Council issued its written decision in this matter on July 26, 2007. In its decision, the Council denied Respondent’s Motion to Dismiss the Complaints and ruled that neither of the cited exemptions were applicable to the regulation at issue.

On the merits, the Council found that Claimants had met their burden of proving “additional direct expenditures” as a result of the regulation, because Claimants’ submissions showed such expenditures with respect to the special education services of at least one school district. Therefore, the Council granted the relief sought by Claimants, ruling that the regulation was an unfunded mandate and that it “ceases to be mandatory in its effect and . . . expires” under the Amendment and the LMA.²

For more information regarding the Council and its decisions in Burlington Special Services and earlier cases, please visit the Council’s web site, at www.state.nj.us/localmandates.

¹ See N.J.Const. art. VIII, §2, ¶5, and N.J.S.A. 52:13H-1 et seq.

² Please consult the text of the opinion, at www.state.nj.us/localmandates/decisions, for a full understanding of its contents.