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March 26, 2021

File No.: 14357-1

VIA EMAIL AND FIRST CLASS MAIL
filings-clmand@treas.state.nj.us

State of New Jersey
Council on Local Mandates
140 East Front Street, 8th floor
Trenton, NJ 08625-0627

Re: In Re: Gloucester City Board of Education

Dear Counsel:

I represent Gloucester City Board of Education. Enclosed for filing is an original and two copies of the Complaint Form with additional information, and the Certification of Service in this regard.

Thank you for your attention in this matter.

Very truly yours,

/s/ William C. Morlok

WILLIAM C. MORLOK

WCM:eb
Enclosure

cc: Richard A. Friedman, Esquire (w/enclosure)(via email)
Jaclyn Frey, Deputy Attorney General (w/enclosure)(via email)

4841-0916-6306, v. 1

COUNSEL WHEN IT MATTERS.SM

Mount Laurel, New Jersey | Hamilton, New Jersey | Atlantic City, New Jersey | Camden, New Jersey



State of New Jersey Council on Local Mandates Complaint

The form is to be completed and signed by the Claimant's attorney or other authorized representative, identified under Part I (B).

I (A). Information regarding the Claimant (include title if a County Executive or Mayor):

Name of Claimant (and title if applicable):

Gloucester City Board of Education

Claimant contact information:

Mailing Address:

1300 Market Street

City:

Gloucester City

State: New Jersey

Zip Code:

08030

Phone:

856-456-7000

Fax:

E-mail address:

I (B). Name of person preparing this document, and title or relationship to Claimant (e.g., legal counsel, business administrator, superintendent):

Name:

William C. Morlok, Esquire

Title/Relationship:

Legal Counsel

Contact information for person identified in Part I (B):

Mailing Address:

9000 Midlantic Drive
Suite 300, P.O. Box 5054

City:

Mount Laurel

State: New Jersey

Zip Code:

08054

Phone:

856-985-4023

Fax:

856-810-5852

E-mail Address:

wmorlok@parkermccay.com

II. The Complaint:

1. Claimant alleges that the following statute, rule, or regulation is an unfunded mandate in violation of the New Jersey Constitution, article VIII, § 2, ¶ 5 and N.J.S.A. 52:13H-2, because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for its implementation:

P.L. 2020, Chapter 44 (S2273/A20)

2. The above-cited statute, rule, or regulation became effective on:

July 1, 2020

3. The following is the basis for the claim made herein that the statute, rule, or regulation identified in paragraph II (1) is an unfunded mandate:

Please See Attached "Section 3 - Basis for the Claim".

Note: The text provided in paragraph II (3) is to be used for the Pleading Summary published on the Council's web site. If more space is needed, please attach additional sheet(s).

4. State Claimant's estimate of the additional direct expenditures required to implement the statute, rule or regulation identified in paragraph II (1), together with:
- (a) a description of the frequency of the estimated expenses (i.e. annual, monthly), and
 - (b) a specification of the basis for the estimate.

Please See Attached "Section 4 – Additional Direct Expenditures"

Note: If more space is needed, please attach additional sheet(s).

5. Does Claimant seek injunctive relief? No ☐ Yes ☒

If yes, on attached sheet(s), provide a description of the nature and extent of imminent irreparable injury that will result to Claimant in the absence of injunctive relief.

6. Claimant attaches:

- ☒ Resolution (of county/municipal governing body or of board of education), which is incorporated herein by reference, *or*
- ☐ Copy of notice of intention to file a complaint provided to governing body.

WHEREFORE, Claimant demands judgment by the Council that the statute, rule, or regulation identified in paragraph II (1) above is an unfunded mandate pursuant to the New Jersey Constitution, Art. VIII, § 2, ¶ 5 and N.J.S.A. 52:13 H-2, and that it shall cease to be mandatory in effect and expire.



[Signature of person preparing this document].

Date:

Name (typed or printed) of person signing

Title (typed or printed) of person signing

Total number of attached pages:

Print Form

File No. 14357-1

Law Offices

PARKER McCAY P.A.

Frank P. Cavallo, Jr., Esq. (01795-1986)

William C. Morlok, Esq. (01834-2009)

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Attorneys for Gloucester City Board of Education

**In re Complaint Filed by the
Gloucester City Board of Education
Regarding P.L. 2020, Chapter 44.**

**STATE OF NEW JERSEY
COUNCIL ON LOCAL MANDATES**

**ADDITIONAL INFORMATION
SUBMITTED WITH FORM
COMPLAINT**

Section 3 – Basis for the Claim

This Complaint addresses P.L. 2020, Chapter 44, legislation that required school districts in New Jersey to offer a new health care plan. Unfortunately, the legislation is already causing the Gloucester City Board of Education to incur \$21,634.32 monthly, or approximately \$260,000.00 yearly, in overall increased health care costs. P.L. 2020, Chapter 44, dictates all financial aspects of the plan, to include contribution percentages, contribution caps, and co-pays, resulting in nothing left for the parties to negotiate to mitigate the financial impact. As a result, the mandate is unfunded.

1. Prior to the passage of P.L. 2020, Chapter 44, school district employee contribution rates toward health care benefits were based on a percentage of premium model.

2. With the passage of P.L. 2020, Chapter 44, school district employee contribution rates toward health care benefits are now based on a percentage of salary model (with caps), and employees are placed in a plan known as the New Jersey Educators Health Plan (“NJEHP”) or equivalent plan (herein collectively: “NJEHP”). The NJEHP has raised the overall costs of health care for the Gloucester City Public School District and their employees.

3. Notably, this change in the basis for contribution rates reduces the percentage of the employee contribution from a range of 3% to 35% to a range of 1.7% to 7.2%. Accordingly, school district employers are now forced to absorb this differential in the percentage of employee contribution rates, often increasing the net cost of health care benefits to the school district employer (or school district as a whole), under the NJEHP.

4. Despite this increase in the net cost of health care benefits to the school district employer under the NJEHP, P.L. 2020, Chapter 44, does not allow for any practical means to offset the additional expenditures required for the school district employer to implement the NJEHP, and is therefore an unfunded mandate.

5. P.L. 2020, Chapter 44 states that "the employer and the majority representative shall engage in collective negotiations over the financial impact of the [cost] difference" when the net cost to the employer under the NJEHP is higher than the net cost of health care benefits coverage available to employees through an existing collective negotiation agreement. However, the school district employer still remains bound by the contribution percentages, contribution caps, and the coverage or co-payment amounts set forth in P.L. 2020, Chapter 44. Accordingly, such collective negotiations "over the financial impact of the difference" in implementing the NJEHP are not truly possible, as there are no health care related financial aspects remaining to negotiate.

6. Pursuant to P.L. 2020, Chapter 44, all school district employees hired on or after July 1, 2020 were to be automatically enrolled in the NJEHP, unless they elected to waive coverage. The Gloucester City Board of Education commenced with that automatic enrollment as of January 1, 2021.

7. Pursuant to P.L. 2020, Chapter 44, all school district employees hired prior to July 1, 2020, were to be provided the option to enroll in the NJEHP, unless they affirmatively elected to waive coverage, or affirmatively elected to remain enrolled in their prior coverage. The Gloucester City Board of Education commenced with that open enrollment as of January 1, 2021.

8. As detailed below, the NJEHP was created to provide cost savings, though the Gloucester City Board of Education has seen a monthly loss of \$21,634.32 which is annualized to \$259,611.84. The Gloucester City Board of Education had recently entered into the School Health Insurance Fund (“SHIF”) program and saw a significant cost savings, so much so that P.L. 2020, Chapter 44 has caused the overall cost of healthcare in the District to go up by approximately \$32,000.00, yearly. P.L. 2020, Chapter 44, has thwarted those efforts and not provided funding or any other means to make up for the negative financial impact.

Section 4 – Additional Direct Expenditures

The negative direct expenditures required to implement P.L. 2020, Chapter 44 are clear and quantifiable in all manners of review. The below discussed data compares the healthcare costs for staff of the Gloucester City Board of Education, comparing data from December of 2020 (before the implementation of P.L. 2020, Chapter 44) and March of 2021 (after the implementation of P.L. 2020, Chapter 44). All the figures are presented in both monthly and annual formats. Further, the data has been equalized for consistency in both members (employees) and covered lives (including employees’ family members).

Exhibit "A" is attached and shows the complete financial implications of P.L. 2020, Chapter 44 has had on the Gloucester City Board of Education. As shown in Exhibit "A" with only approximately one-third of employees switching to the NJEHP plan, allowed for by P.L. 2020, Chapter 44, the Gloucester City Board of Education is paying \$21,634.32 more monthly, or \$259,611.84 more yearly, for a percentage increase of 4.89%. They were forced to do so without funding. Moreover, the overall cost of the plan, accounting for both what employees and the Gloucester City Board of Education pay, combined, has seen an overall increase of \$2,692.00 monthly, or \$32,304.00, yearly, for a percentage increase of 0.49%.

The impacts of P.L. 2020, Chapter 44 are also being felt across the state of New Jersey. A recent survey conducted by the New Jersey Association of School Business Officials "requested information on the 1/1/2021-6/30/2021 impact of [P.L. 2020, Chapter 44 and found] of the 158 responses, 85% indicated the implementation will cost their district more money." (See Exhibit "B"). As addressed below, without injunctive relief, the unfunded cost could be forced upon the Gloucester City Board of Education and an untold number of other school districts.

Section 5 – Request for Injunctive Relief

The Gloucester City Board of Education seeks injunctive relief because its compliance with P.L. 2020, Chapter 44, constitutes a significant financial hardship, and the statute provides no alternative funding to offset the additional expenditures that the Gloucester City Board of Education continues to incur.

"Through its enabling statute, the Council on Local Mandates ('Council') is specifically authorized to issue a preliminary ruling enjoining the enforcement of a statute, rule, or regulation,

pending consideration of whether any of the foregoing constitutes an unfunded mandate, whenever a complaint demonstrates to the Council's satisfaction that (1) significant financial hardship to the claimant would result from compliance and (2) there is a substantial likelihood that the statute or the rule or regulation is, in fact, an impermissible, unfunded State mandate." N.J.S.A. 52:13H-16; In re a Complaint filed by the Board of Education for the City of Clifton, Council on Local Mandates Decision (May 13, 1998).

As outlined in the Complaint, the Gloucester City Board of Education has seen an annualized increase of over a quarter of a million dollars because of the impacts of P.L. 2020, Chapter 44. It is evident there is both a significant financial hardship and that there is a substantial likelihood that P.L. 2020, Chapter 44 is an unfunded State mandate.

For the foregoing reasons, the Gloucester City Board of Education requests that the Council enjoin the enforcement of P.L. 2020, Chapter 44, while the instant matter is pending before it.

Section 6 – Resolution

Attached as Exhibit "C" please find a Certified Resolution of the Gloucester City Board of Education, authorizing suit.

Respectfully submitted,

PARKER MCCAY, P.A.
Attorneys for Claimant,
Gloucester City Board of Education

BY: /s/William C. Morlok
WILLIAM C. MORLOK

Dated: 3/26/2021

4814-1399-8049, v. 1

File No. 14357-1

Law Offices

PARKER McCAY P.A.

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Attorneys for Gloucester City Board of Education

**In re Complaint Filed by the
Gloucester City Board of Education
Regarding P.L. 2020, Chapter 44.**

**STATE OF NEW JERSEY
COUNCIL ON LOCAL MANDATES**

CERTIFICATION OF SERVICE

I, Elizabeth A. Bennett of full age, hereby certify as follows:

I am employed by the law firm of Parker McCay P.A., attorneys for Gloucester City Board of Education, and on March 26, 2021, the original and two copies of Complaint in the above captioned matter was sent via email and First Class Mail to:

State of New Jersey
Council on Local Mandates
140 East Front Street, 8th Floor
Trenton, NJ 08625
filings-clmand@treas.state.nj.us

A copy of the within was also sent to the following via Email:

Richard A. Friedman, Esquire
rfriedman@zazzali-law.com

Jaclyn Frey
Deputy Attorney General
Jaclyn.Frey@law.njoag.gov

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Elizabeth A. Bennett
Elizabeth A. Bennett

Date: March 26, 2021

4851-4581-2962, v. 1

Exhibit A

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ALL STAFF HEALTH COVERAGE COMPARISON

	Members	Covered Lives	Monthly	Annualized
<u>December 2020 Census</u>	255	461		
All Plans			\$554,208.00	\$6,650,496.00
Employee Share			112,208.00	1,346,496.00
Net Board Share December 2020			\$442,000.00	\$5,304,000.00

Same lives, March 2021

Original Plan	166	287	\$365,320.00	\$4,383,840.00
Employee Share			70,892.25	850,707.00
NJEHP Plan	89	174	191,580.00	2,298,960.00
Employee Share			22,373.43	268,481.16
All Plans	255	461	556,900.00	6,682,800.00
Employee Share All Plans			93,265.68	1,119,188.16
Net Board Share March 2020			\$463,634.32	\$5,563,611.84

Net Change in All Plans Cost to District + (-)	\$21,634.32	\$259,611.84	4.89%
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Net Change in All Plans Cost	\$2,692	\$32,304	0.49%
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Exhibit D'

From: noreply@njasbo.com <noreply@njasbo.com>
Sent: Tuesday, January 26, 2021 1:30 PM
To: Davenport, Vanessa J. <Vanessa.Davenport@doe.nj.gov>
Subject: [EXTERNAL] NJASBO - Trustee Meeting Briefs

***** CAUTION *****

This message came from an **EXTERNAL** address (010001773ff53624-1db7b703-d6e8-40b7-8475-a7a58b874a64-000000@amazonses.com). **DO NOT** click on links or attachments unless you know the sender and the content is safe. **Suspicious?** Forward the message to spamreport@cyber.nj.gov.

The logo features the word "KeyAlert" in a large, sans-serif font. The "Key" is white and the "Alert" is yellow. Both words have a horizontal line underneath them. The logo is set against a dark blue background.

Dear Vanessa

NJASBO

State Meeting Briefs

January 22, 2021

1. **Special Guests-** DOE Commissioner Angelica Allen-McMillan and Assistant Commissioner Kevin Dehmer joined the meeting and discussed a number of topics such as state aid (no update), C. 44 data collection, ESSER II, Security Aid grants (subject to legislative approval and timeline) and CRF audits.
2. **Action Items-** The Trustees approved all agenda items as presented.
3. **Discussion Items:**
 - **Technology Survey regarding Professional Development-** The detailed results were shared however in general 90+% indicated they attend PD for credits and relevant topics with 68% indicating they would attend both in person and virtually, post pandemic. The detailed results of the survey can be found under the Members Only section (Documents) of the website.
 - **Health Benefit Survey-** NJASBO shared consolidated results of the survey which requested information on the 1/1/2021-6/30/2021 impact of C. 44. Of the 158 responses, 85% indicated the implementation will cost their district more money
 - **Equity, Diversity and Inclusion Initiative-** NJASBO commenced an initial meeting with NJASBO members regarding this topic.
 - **NJASBO 2nd VP Candidates-** Katie Atwood (Hamilton Township) and Steve Brennan (Barnegat Township) have submitted their names for consideration as the Central Region 2nd VP for 2021-2022. The Central Region Presidents will vote on February 19th.
 - **Distinguished Service Awards** – Nominee packets for each region were distributed to County Presidents. Voting will take place on February 19th.
 - **Conferences-** ASBO International has cancelled their February 2021 Leadership conference. NJASBO has cancelled its in person June conference and will hold a virtual conference.

- **Committees & Appointments-** Conference, Technology, Purchasing and Legislative committee minutes and the NJSIAA report are posted on the website.

Feel free to [contact us](#) if you have any questions or concerns.

Sue

Sue Young, Executive Director
4 AAA Drive, Suite 101
Robbinsville, NJ 08691
sue@njasbo.com
609-689-3870 - phone

<http://www.njasbo.com/members/EmailOptPreferences.aspx?id=54949254&e=vanessa.davenport@doe.nj.gov&h=7278faa4ddf191230ab2ac407d7095c3ba05129d>



NJASBO is a professional association that promotes the highest standards of ethics and efficiency, provides its membership with professional development and support, and collaborates with entities that affect public education.

Exhibit C

”



Gloucester City Public Schools
1300 Market Street
Gloucester City, NJ 08030
(856) 456-7000

Teri J. Weeks CPA, SFO, RSBO
School Business Administrator

**GLOUCESTER CITY BOARD OF EDUCATION
GLOUCESTER CITY, NEW JERSEY 08030
Regular Meeting, March 9, 2021**

Members Present: Mrs. Wright, Mrs. Mass, Mrs. Borger, Ms. Flinn, Mr. Harris, Mr. Hubbs, Mr. Sanderson, Mr. Ulmer Mr. Schilli, Mrs. Rivas

Members Absent: None

This is to certify that the above Motion was passed by the Gloucester City Board of Education at the March 9, 2021 Board Meeting.

Action after Executive Session: Motion made by Mrs. Borger, seconded by Mr. Sanderson, to approve the following resolution:

RESOLUTION OF THE GLOUCESTER CITY BOARD OF EDUCATION

BE IT RESOLVED, upon the recommendation of counsel and the Chief School Administrator, that the Gloucester City Board of Education ("Board"), authorizes counsel, Chief School Administrator, Board President, Board Secretary and/or their designees, consistent with the requirements of P.L. 1996, Chapter 24, Section 12, to take any and all steps necessary to file a Complaint with the Council on Local Mandates, to challenge the unfunded mandate created by P.L. 2020, Chapter 44; and

BE IT FURTHER RESOLVED, the Board has fully considered and determined that the aforementioned litigation is in the best interests of the school district and public.

Motion approved by roll call vote, all members present voted yes.
Motion approved

Teri J. Weeks CPA, SFO, RSBO
School Business Administrator/Board Secretary
Gloucester City Public Schools