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Senate President Stephen M. Sweeney
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**In re Complaint Filed by the
Franklin Township Board of
Education Regarding P.L. 2020,
Chapter 44.**

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

**In re Complaint Filed by the
Lower Township Elementary
Board of Education Regarding
P.L. 2020, Chapter 44.**

**STATE OF NEW JERSEY
COUNCIL ON LOCAL MANDATES
COLM-0001-21**

Consolidated Action

RESPONDENTS
SENATE PRESIDENT STEPHEN M. SWEENEY'S
AND ASSEMBLY SPEAKER CRAIG J. COUGHLIN'S
ANSWER TO THE COMPLAINTS

Respondents, Senate President Stephen M. Sweeney and Assembly Speaker Craig J. Coughlin (hereafter collectively “the Presiding Officers”), by way of Answer to the Complaints filed by Claimants Franklin Township Board of Education, Gloucester City Board of Education and Lower Township Elementary Board of Education (hereafter collectively “Claimants”)¹, say as follows:

¹ By Order dated April 5, 2021, the Council has consolidated the three Complaints. Because this matter has been consolidated and because the factual and legal assertions made in the three Complaints are virtually identical, the Presiding Officers, in their Answer, address the three Complaints together.

1. The Preamble of the Complaints is a legal assertion for which no answer is required.

2. Paragraph 1 of the Complaints is a legal assertion for which no answer is required.

3. With regard to the first sentence of Paragraph 2, the statement is a legal assertion for which no answer is required. With regard to the second sentence of Paragraph 2, the Presiding Officers are without sufficient information to admit or deny the allegations contained therein and leave Claimants to their proofs.

4. Paragraph 3 of the Complaints is a legal assertion for which no answer is required.

5. Paragraph 4 of the Complaints is a legal assertion for which no answer is required.

6. Paragraph 5 of the Complaints is a legal assertion for which no answer is required.

7. Paragraph 6 of the Complaints is a legal assertion for which no answer is required.

8. Paragraph 7 of the Complaints is a legal assertion for which no answer is required.

9. With regard to the first and second sentences of Paragraph 8, the Presiding Officers are without sufficient information to admit or deny the allegations contained therein and leave Claimants to their proofs. With regard to the third sentence of Paragraph 8, the statement is a legal assertion for which no answer is required.

10. With regard to the multiple paragraphs contained in the portion of the Complaints titled "Section 4," to the extent the sentences contained therein are factual assertions regarding Claimants' insurance expenses, the Presiding Officers are without sufficient information to admit or deny the allegations contained therein and leave Claimants to their proofs. To the to the extent the sentences contained therein are legal assertions, no answer is required.

11. With regard to the multiple paragraphs contained in the portion of the Complaints titled "Section 5," to the extent the sentences contained therein are factual assertions regarding Claimants' insurance expenses or (in the case of the Franklin Township Board of Education, the

status of certain litigation involving that Claimant), the Presiding Officers are without sufficient information to admit or deny the allegations contained therein and leave Claimants to their proofs. To the to the extent the sentences contained therein are legal assertions, no answer is required.

12. With regard to the portion of the Complaints titled “Section 6” referencing the resolution of the Claimant to file this action, the Presiding Officers are without sufficient information to admit or deny the authenticity and/or operative effect of the resolution.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Claimants have failed to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate within the meaning of N.J. Const., Art. VIII, § 2, ¶ 5(b) and N.J.S.A. 52:13H-2.

THIRD AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate because it “repeals, revises or eases an existing requirement or mandate” within the meaning of N.J. Const. Art. VIII, § 2, ¶ 5 (c)(3) and N.J.S.A. 52:13H-3(c).

FOURTH AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate because the statute was enacted to help school districts in controlling spiraling health care costs through a careful re-design of public employee health insurance plans.

FIFTH AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate because the Act is projected to provide total claim savings of \$865 million per year for all school districts.

SIXTH AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate because health insurance costs inherently fluctuate based on a myriad of factors – many of which are outside the control of any governmental entity.

SEVENTH AFFIRMATIVE DEFENSE

L. 2020, c. 44 is not an impermissible unfunded mandate because to the extent that some school districts might encounter transitional costs – rather than transitional savings – the Act requires the school districts to enter into collective bargaining negotiations with their employee organization in order to address the transitional costs. The Claimants’ failure and refusal to comply with this required provision of the Act is sufficient to defeat their application for preliminary injunctive relief.

EIGHTH AFFIRMATIVE DEFENSE

All Claimants have failed to enter into collective bargaining negotiations with their employee organization as required by section 8 of L. 2020, c. 44. Having failed to comply with the requirements of the Act, all Claimants do not have a cognizable claim that L. 2020, c. 44 is an impermissible unfunded mandate.

NINTH AFFIRMATIVE DEFENSE

All Claimants have failed to enter into collective bargaining negotiations with their employee organization as required by section 8 of L. 2020, c. 44. Because all Claimants have failed to comply with the requirements of the Act, this tribunal is without jurisdiction to hear their alleged claims.

TENTH AFFIRMATIVE DEFENSE

All Claimants have failed to mitigate their damages.

ELEVENTH AFFIRMATIVE DEFENSE

All Claimants are barred from recovery by the doctrine of unclean hands.

TWELFTH AFFIRMATIVE DEFENSE

Claimants' claims are barred by the doctrines of waiver, estoppel, and laches.

Cullen and Dykman LLP
Attorneys for Respondents Senate President
Stephen M. Sweeney and Assembly Speaker
Craig J. Coughlin

By: /s/ Leon J. Sokol
Leon J. Sokol

Dated: April 23, 2021