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May 15, 2015

Via Electronic Mail

Council on Local Mandates
135 West Hanover Street
Trenton, New Jersey 08625-0627

Re: In the Matter of a Complaint Filed by the Rockaway Township
Board of Education - New Jersey Dyslexia Law
Docket No.

Dear Council:

Enclosed for filing, please find an Answer to be filed in regard to the above-referenced matter.

Thank you for your attention to this matter.

Respectfully submitted,

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____

Lauren A. Jensen
Deputy Attorney General

C: Hon. John A. Sweeney, A.J.S.C. (Ret.) (via electronic mail)
Nathanya G. Simon, Esq. (via electronic mail)
Kyle J. Trent, Esq. (via electronic mail)



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: BEFORE THE COUNCIL ON LOCAL
: MANDATES
:
IN THE MATTER OF A COMPLAINT :
FILED BY THE ROCKAWAY TOWNSHIP : Docket No.
BOARD OF EDUCATION - NEW :
JERSEY DYSLEXIA LAW :
:
: ANSWER

Respondent, Commissioner of the New Jersey Department of Education, by way of Answer to the Complaint filed by Claimant, Rockaway Township Board of Education, states:

1. The allegations in paragraph II(1) constitute conclusions of law to which no response is required. Moreover, it is specifically denied that N.J.S.A. 18A:46-55, 18A:6-130 to -131, and 18A:40-5.1 to -5.4 are unconstitutional.

2. To the extent the allegations in paragraph II(2) contain only the effective dates of the statutes at issue in this case, no response is required. The statute is a legislative record and speaks for itself.

3. The allegations in paragraph II(3) constitute conclusions of law to which no response is required. To the extent paragraph II(3) contains factual allegations, same are denied. Moreover, it is specifically denied that N.J.S.A. 18A:46-55, 18A:6-130 to -131, and 18A:40-5.1 to -5.4 are unconstitutional.

4. The allegations in paragraph II(4) are denied. Moreover, it is specifically denied that N.J.S.A. 18A:46-55, 18A:6-130 to -131, and 18A:40-5.1 to -5.4 are unconstitutional.

Pleading Summary

Respondent denies that the provisions of N.J.S.A. 18A:46-55, 18A:6-130 to -131, and 18A:40-5.1 to -5.4 constitute unfunded mandates. N.J.S.A. 18A:46-55 directs the State Board of Education "to promulgate regulations that incorporate the International Dyslexia Association's definition of dyslexia into . . . the New Jersey Administrative Code." N.J.S.A. 18A:6-130 requires "the State Department of Education to provide professional development opportunities related to reading disabilities, including dyslexia, to school district personnel" and N.J.S.A. 18A:6-131 requires the State Board of Education to "require certain teaching staff members to annually complete at least two hours of professional development instruction on the screening, intervention, accommodation, and use of technology

for students with reading disabilities, including dyslexia." N.J.S.A. 18A:40-5.1 to -5.4 require local boards of education to ensure that students who exhibit one or more of the identified "potential indicators of dyslexia or other reading disabilities" are screened, using a screening instrument selected by the school board, no later than the completion of the first semester of second grade.

All of these provisions relate to identifying students with dyslexia and ensuring that they are receiving any necessary educational services. Dyslexia is a "specific learning disability" under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(30)(B), and thus none of the challenged statutes are unfunded mandates because they are required to comply with federal law. Further, dyslexia was included within the Administrative Code's definition of a "specific learning disability" prior to the enactment of any of these statutes, and therefore the statutes simply revised existing requirements and do not impose any additional obligations on the districts.

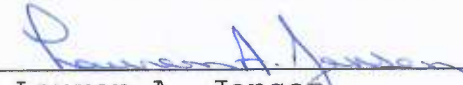
Beyond that, each local school district receives state aid and has the discretion to utilize that state aid to support any alleged costs associated with identifying and providing services for students with dyslexia.

WHEREFORE, Respondent requests that the Council on Local Mandates dismiss Claimant's Complaint.

Respectfully submitted,

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:



Lauren A. Jensen
Deputy Attorney General

Dated: May 15, 2015