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March 29, 2012

The Honorable John A. Sweeney, A.J.S.C. (Ret.)
Chairman of The Council On Local Mandates
P.O. Box 627
Trenton, New Jersey 08625-0627

Re: In Re The Complaint of the Allamuchy Township Board
of Education, Docket No.: 9-11

Dear Judge Sweeney:

Please accept this letter brief on behalf of Respondent, State of New Jersey as its pleading summary in support of Respondent's Motion to Dismiss. Respondent will rely on the attached Certification of Daniel F. Dryzga, Jr. in support of its motion.

Briefly stated, Allamuchy Township Board of Education is challenging L. 2010, c. 122, the Anti-Bullying Bill of Rights Act, claiming that certain provisions in the act amount to unfunded mandates. Because L. 2010, c. 122 has been superceded by L. 2012, c. 1, the matter before this Council is now moot and should be dismissed.



PROCEDURAL HISTORY AND STATEMENT OF FACTS¹

On January 5, 2011, L. 2010, c. 122 was signed into law. The "Anti-Bullying Bill of Rights Act of 2011" as it is known was described as "amending various parts of the statutory law and supplementing L. 2002, c. 83."

As a result of the above legislation, on or about September 7, 2011 the Allamuchy Township Board of Education filed a Complaint with the Council on Local Mandates, seeking to declare portions of L. 2010, c. 122 an unfunded mandate. An Answer was filed on behalf of the State of New Jersey on or about September 29, 2011. Then, on or about November 14, 2011, the Allamuchy Township Board of Education filed a Summary Judgment Motion and the State of New Jersey filed Opposition and a Cross Motion for Summary Judgment.

Oral argument was held on January 27, 2012. After hearing the arguments, the Council found that provisions of the Anti-Bullying Bill of Rights constituted unfunded mandates. The Council indicated that it would not issue a written decision for approximately sixty (60) days and urged the Legislature to cure the deficiencies in the statute.

¹ Because they are closely intertwined, the Procedural History and Statement of Facts are combined for the convenience of the Council and of the parties.

Subsequently, on March 15, 2012, both houses of the New Jersey State Legislature voted to pass legislation to amend the Anti-Bullying Bill of Rights Act. On March 26, 2012, Governor Christie signed into law L. 2012, c. 1. This new law amends the provisions of L. 2002, c. 83 as well as L. 2010, c. 122 which is the subject of the within challenge.

ARGUMENT

**L. 2010, c. 122 HAS BEEN SUPERCEDED
BY L. 2012, c. 1, THEREFORE THIS
MATTER IS MOOT AND SHOULD BE
DISMISSED.**

Because L. 2010, c. 122 has been superceded by new legislation (L. 2012, c. 1), the above matter has become moot. A case becomes moot when the issues presented are no longer live or when the parties lack a legally cognizable interest in the outcome. Powell v. McCormack, 395 U.S. 486, 496 (1969).

It is well-settled that controversies which have become moot or academic prior to judicial resolution ordinarily will be dismissed. Anderson v. Sills, 143 N.J. Super. 432, 437-38 (Ch. Div. 1976). In Anderson, the court identified the two primary reasons for this doctrine as follows:

First for reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, a judgment cannot grant effective relief, or the parties

do not have concrete adversity of interest. Second, it is a premise of the Anglo-American judicial system that a contest engendered by genuinely conflicting self-interests of the parties is best suited to developing all relevant material before the Court.

[Id. at 437].

Currently before this Council is a Complaint by the Allamuchy Township Board of Education challenging the provisions of L. 2010, c. 122. Because L. 2010, c. 122 has been superceded by L. 2012, c. 1, there is no longer any case or controversy before this Council. As such, it is respectfully requested that the above matter be dismissed as moot.

CONCLUSION

For the forgoing reasons, Respondent's Motion To Dismiss should be granted.

Respectfully submitted,

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Daniel F. Dryzga, Jr.
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