

STATE OF NEW JERSEY

COUNCIL ON LOCAL MANDATES

RULES OF PROCEDURE

Introduction

The Council will consider the written comments or suggestions of any interested party, group, or individual regarding these Rules. Such comments or suggestions should be directed to the Council at its office:

By US mail or express mail:

Council on Local Mandates
PO Box 627
Trenton, NJ 08625-0627

By overnight mail:

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

By facsimile:

Facsimile number (609) 984-9737

By e-mail:

E-mail address: clmand@treas.state.nj.us.

The phone number of the Council for inquiries is (609) 984-9738.

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**COUNCIL ON LOCAL MANDATES
RULES OF PROCEDURE**

Rule 1. Scope and Purpose of Rules.

These Rules govern the procedure in matters before the New Jersey Council on Local Mandates. They shall be construed to secure a just determination, simplicity in procedure, and fairness in administration. Unless otherwise stated, any Rule may be relaxed or dispensed with by the Council. In the absence of Rule, the Council may proceed in any manner compatible with the foregoing purposes.

Rule 2. Pleadings Allowed. The following pleadings, and no others, may be filed with the Council:

- a. A Complaint, which shall initiate any matter to be heard and decided by the Council;
- b. An Answer to a Complaint;
- c. A Request to Appear as Amicus Curiae; and
- d. A motion or application to the Council, and any response thereto, filed by any party to a proceeding or by amicus curiae.

Rule 3. Procedures for Filing and Service; Representation.

- a. A Complaint may be filed by any one of the following methods:
 - (i) in person or by hand delivery, during regular business hours (9 a.m. to 5 p.m.) at the Council's office at:
135 West Hanover Street, Trenton, NJ 08625;
 - (ii) by US mail (regular or express), directed to the Council at:
PO Box 627, Trenton, NJ 08625-0627;
 - (iii) by private overnight mail service, directed to the Council at:
135 West Hanover Street, Trenton, NJ 08625;
 - (iv) by electronic mail ("e-mail") to filings-clmand@treas.state.nj.us; or
 - (v) by facsimile ('fax') transmission to the Council's fax number, 609-984-9737.
- b. A Complaint filed by any of the methods described under Rule 3 (a) (i) through (iii) shall be made by transmitting the signed original and two copies; a Complaint filed by e-mail or fax transmission must be followed, within two (2) business days, by transmittal of the hardcopy original and two copies to the Council office by any of the methods described under Rule 3 (a) (i) through (iii).

Rule 3. Procedures for Filing and Service; Representation, continued.

- c. Any pleading or other document following the Complaint may be filed by any of the methods described under Rule 3 (a) (i) through 3 (a) (iii), or if permission therefor is first obtained from the Council, may be filed by fax transmission as described under Rule 3 (a) (v) or by e-mail transmission pursuant to instructions received from the Council office.
- d. Pleadings and other documents will be considered as “filed” on the date received, except that documents received after 5 p.m. or on Saturdays, Sundays, or State holidays will be considered as “filed” on the next business day.
- e. Although representation of the Claimant by an attorney at law of New Jersey is preferred and recommended, a Claimant may elect to be represented by an officer or employee so authorized by it. All pleadings and other documents to be filed must be signed by the attorney or other authorized representative and must include the date of signing and the signer's address, telephone number, and any fax number and electronic mail (“e-mail”) address to which official case correspondence may be sent.
- f. A copy of a pleading or other document that is required by these Rules to be served on a party to the proceeding or on amicus curiae (“amicus”) must be served on the designated attorney or other authorized representative, by no later than the date on which the document is filed with the Council, and the filed document must include a statement describing the method by which the copy was or is being served on that party or on the amicus.
 - (i) To facilitate compliance with this Rule, for each proceeding before the Council, the Council staff will prepare, and make available to any interested group, individual, or party, a current “Service List” containing the name, address, telephone number, and any fax number and e-mail address of each designated attorney or other authorized representative and the party or amicus so represented.
 - (ii) It is the responsibility of any group, individual, or party that files a pleading or other document to verify with Council staff, in advance of filing, that each party and amicus to be served with the filing is as listed on the most recently updated Service List for the proceeding.
- g. The Council in its discretion may, in a specific case, direct the filing of all pleadings or other documents following the Complaint by e-mail transmission.

Rule 4. Parties Defined.

The parties to a proceeding before the Council shall include (a) the person or entity who has filed a Complaint (“Claimant”), and (b) any group or individual who has filed an Answer (“Respondent”).

Rule 5. Complaints.

a. Who May File a Complaint. A Complaint may be filed by:

- (i) A county, municipality, or school district; or
- (ii) A county executive, or a mayor who has been directly elected by the voters of the municipality, who has provided the governing body with written notice of intention to file a complaint with the Council.

P.L. 1996, Chapter 24, Section 12.

b. Form of Complaint and Accompanying Documents.

- (i) A Claimant must complete and file a Complaint by utilizing the Complaint form, a copy of which is annexed to these Rules as Appendix 1 and which may be downloaded from the Council's Internet site (<http://www.state.nj.us/localmandates>).
- (ii) If filed by a county, municipality, or school district, the Complaint must be accompanied by a resolution passed by the governing body of a county or municipality or by a local board of education, which shall be incorporated by reference. *P.L.1996, Chapter 24, Section 12.*
- (iii) If filed by a county executive or mayor, the Complaint must be accompanied by a copy of the written notice to the governing body of intention to file. *P.L.1996, Chapter 24, Section 12.*
- (iv) A Complaint may be accompanied by supportive evidence. *P.L.1996, Chapter 24, Section 12.*

c. Contents of Complaint.

The Complaint must identify the specific provision(s) of the statute, rule, or regulation complained of, and must include (i) a concise statement setting forth the basis for the relief requested, which is to be used as the Pleading Summary published on the Council website and (ii) Claimant's estimate of the additional direct expenditures required to implement the statute, rule or regulation.

d. Request for Injunctive Relief.

Any Complaint requesting injunctive relief must include a statement that describes the nature and extent of imminent irreparable injury that will result to the Claimant in the absence of injunctive relief.

Rule 6. Answers to Complaints.

a. Who May Answer.

Any group or individual directed to do so by the Council shall file an Answer to a Complaint. Any other group or individual may file an Answer to a Complaint if so permitted by the Council, in its publication of the Complaint pursuant to Rule 9 (a) or otherwise.

b. Form and Content of Answer.

- (i) An Answer shall be in writing and shall identify the Complaint to which the Answer is made and the group or individual making the Answer.
- (ii) The Answer shall admit or deny each allegation contained in the Complaint. A failure to answer any allegation will be treated as a denial of that allegation.
- (iii) The Answer must include a concise statement setting forth Respondent's assertion as to whether the statute, rule or regulation that is the subject of the Complaint is or is not an unfunded mandate and the basis for that assertion. Said statement, to be published on the Council website, shall be clearly identified and prefaced in the Answer by the phrase "Pleading Summary."

c. Time.

The Answer shall be filed pursuant to the time period directed by the Council.

d. Service.

A copy of the Answer and any accompanying documents shall be served upon the Claimant and such other parties and amici curiae as the Council may direct, pursuant to the procedures contained in Rule 3 (f).

Rule 7. Amici Curiae.

a. Who May File.

Any group or individual may file a request with the Council to appear as amicus curiae. *P.L. 1996, Chapter 24, Section 12(c).*

Rule 7. Amici Curiae, continued.**b. Form and Content of Request to Appear as Amicus Curiae.**

- (i) A Request to Appear as Amicus Curiae shall be in writing and shall identify the Complaint with respect to which the group or individual seeks to appear, the identity of the group or individual seeking to appear, the issue it wishes to address, the nature of the public interest therein, the nature of the requester's interest, and the requester's involvement or expertise with respect to the issues involved. *P.L. 1996, Chapter 24, Section 12(c).*
- (ii) A Request to Appear must include a brief summary of the Request and a concise statement setting forth the Requester's assertion as to whether the statute, rule or regulation that is the subject of the Complaint is or is not an unfunded mandate and the basis for that assertion. Said summary and statement, to be published on the Council website, shall be clearly identified and prefaced in the Request to Appear by the phrase "Pleading Summary."
- (iii) The Council may require that a Request to Appear be accompanied by an affidavit, written statement, brief, or other written document addressing the issue as to which amicus status is sought.

c. Time.

A Request to Appear shall be filed pursuant to the time period directed by the Council.

d. Service.

A copy of the Request to Appear and any accompanying documents shall be served on all parties and on amici curiae, pursuant to the procedures contained in Rule 3 (f).

Rule 8. Motions.

- a. All motions shall be in writing except those made during a hearing, and when written shall state with particularity the nature of the relief sought and shall conform to the filing procedures set forth in Rule 3 of these Rules.
- b. Except as otherwise provided in Rule 8 (e), a written motion shall include a concise statement setting forth the movant's description of the relief sought and the basis for the requested relief. Said statement, to be published on the Council website, shall be clearly identified and prefaced in the moving papers by the phrase "Pleading Summary."

Rule 8. Motions, continued.

- c. A response to a written motion may be filed only if permitted by the Council. The Council shall direct the time within which the response shall be filed and, except as provided in Rule 8 (e), the response shall include a concise statement setting forth the responder's assertion regarding the relief sought and the basis for that assertion. Said statement, to be published on the Council website, shall be clearly identified and prefaced in the responding papers by the phrase "Pleading Summary."
- d. A copy of a written motion and any responses thereto must be served on all parties to the proceeding and on amici curiae, pursuant to the procedures contained in Rule 3 (f).
- e. Extensions and Adjournments. Before requesting the Council to extend any time period or adjourn any matter, a party or amicus shall first seek to obtain the consent of all parties to the proceeding, which consent shall not be unreasonably withheld. Pleading summaries are not required to be included in motions or applications to extend or adjourn, or any responses thereto.

Rule 9. Publication of Pleadings and Lists of Parties. The Council shall publish promptly all pleadings filed with it that meet the threshold requirements of law and of these Rules, and shall identify parties to proceedings, and amici curiae, in the following manner:

- a. The Council shall cause photocopies of the Complaint to be delivered to the Governor's Chief Counsel, the Attorney General, the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, the Minority Leader of the General Assembly, the Secretary of the Senate, the Clerk of the General Assembly, the head of the agency that promulgated any rule or regulation that is the subject of the Complaint, and such other group(s) or individual(s) as directed by the Council.
- b. The Council shall publish on the Internet a summary of the Complaint, accessible at the Council's Internet site (<http://www.state.nj.us/localmandates>), which shall be based on the information supplied in the Complaint.
- c. Other than a motion under Rule 8 (e), the Council shall publish on the Internet a summary of any subsequent pleading in the proceeding, which shall be accessible at the Council's Internet site (<http://www.state.nj.us/localmandates>), and which shall be based on the information supplied in the pleading as the Pleading Summary.
- d. Council staff shall maintain, and make available to any interested group, individual, or party, an official Service List for each proceeding, as described in Rule 3 (f) (i) of these Rules, and will periodically update the Council's Internet site (<http://www.state.nj.us/localmandates>) with the names of parties and amici curiae on that Service List.
- e. A photocopy of any pleading will be available on request to the Council staff.

Rule 10. Conferences.

As soon as possible after the filing of the Answer(s), the Council in its discretion may schedule an administrative conference with the parties to narrow or define the issues to be heard and to provide for the orderly and efficient progress of the case.

Rule 11. Consolidation.

When Complaints filed by more than one governing body, mayor, county executive, or local board relate to the same provision of a statute or to the same part of a rule or regulation, the Council may order a joint hearing or consolidation of any or all matters in issue; it may order all the Complaints consolidated; and it may issue such orders concerning the proceedings therein as may tend to avoid unnecessary costs or delay.

Rule 12. Discovery; Production of Documents and Other Information.

- a. At least 30 days before a scheduled hearing date or by such other date as the Council may direct, a party must file with the Council any documents or other written information on which it intends to rely at hearing.
- b. A party may request discovery from another party on motion to the Council and for good cause shown. If the Council permits the requested discovery, it may establish time limits for its completion.
- c. The Council in its discretion may require any party to submit additional information.
- d. A copy of any document or other information described in subsections (a) through (c) of this Rule shall be served on all parties to the proceeding and on amici curiae, pursuant to the procedures contained in Rule 3 (f).

Rule 13. Hearing Procedures.


- a. Any party and any amicus curiae may be represented by counsel or other authorized representative.
- b. The Council may require witnesses to testify under oath or affirmation.
- c. Order of Proceedings.
 - (i) A hearing shall be opened by the recording of the date, time, and place of the hearing and the presence of the Council, the parties, amici curiae, and any counsel or other authorized representative(s) of the parties and amici curiae.
 - (ii) The Council may vary the normal procedure for presentation of evidence, but in any case shall afford to all parties fair notice and full and equal opportunity to be heard.

Rule 13. Hearing Procedures, continued.

- d. Evidence.
 - (i) The parties may offer such evidence as is relevant and material to the dispute, and shall produce such additional evidence as the Council may determine.
 - (ii) The Council may subpoena witnesses and documents independently or on the request of any party.
 - (iii) The Council shall determine the relevance and materiality of the evidence offered. Conformity to legal rules of evidence shall not be required.
 - (iv) All evidence shall be taken in the presence of the Council and all of the parties except where a party has waived the right to be present.
 - (v) The Council may receive and consider the evidence of witnesses by affidavit.
- e. Record of Proceedings. The Council may direct that any special sound recording or stenographic reporting service requested by a party to the proceeding be provided at the expense of that party.

Rule 14. Final Decisions.

Final decisions by the Council shall be in writing, and shall set forth the reasons therefor. *P.L. 1996, Chapter 24, Section 15.*

	<h2 style="margin: 0;">State of New Jersey Council on Local Mandates Complaint</h2>	
<p><i>The form is to be completed and signed by the Claimant's attorney or other authorized representative, identified under Part I (B).</i></p>		
I (A). Information regarding the Claimant (include title if a County Executive or Mayor):		
Name of Claimant (and title if applicable):		
Claimant contact information:		
Mailing Address:		
City:	State: New Jersey	Zip Code:
Phone:	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:		
Title/Relationship:		
Contact information for person identified in Part I (B):		
Mailing Address:		
City:	State: New Jersey	Zip Code:
Phone:	Fax:	
E-mail Address:		
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 <u>N.J.S.A. 52:13H-2</u> , because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for its implementation:		
2. The above-cited statute, rule, or regulation became effective on:		

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:

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.

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

<p>5. Does Claimant seek injunctive relief? No <input type="checkbox"/> Yes <input type="checkbox"/></p> <p>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.</p>	
<p>6. Claimant attaches:</p> <p><input type="checkbox"/> Resolution (of county/municipal governing body or of board of education), which is incorporated herein by reference, <i>or</i></p> <p><input type="checkbox"/> Copy of notice of intention to file a complaint provided to governing body.</p>	
<p>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.</p>	
<p>_____</p> <p><i>[Signature of person preparing this document].</i></p> <p>Date: _____</p>	<p>_____</p> <p>Name (typed or printed) of person signing</p> <p>_____</p> <p>Title (typed or printed) of person signing</p>
<p>Total number of attached pages: _____</p>	