

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

The Hampstead School District, et al.

v.

School Administrative Unit No. 55, et al.

Docket No. 218-2018-CV-01395

**EMERGENCY MOTION FOR CLARIFICATION REGARDING SCHOOL  
BOARD CHAIR**

NOW COMES the Petitionees, the members of the Timberlane Regional School Board and its board members in their official capacity, through their attorney LAW OFFICES OF JOHN KUZINEVICH, and requests the court to clarify who shall serve as the SAU 55 chairperson if either the writ of mandamus or injunctive relief is granted. Petitionees recognize this motion may be rendered moot if the requested relief from the Hampstead board is denied or if the hearing is moved to January 4, 2019. This motion is brought as an emergency since it relates to the emergency petition brought by the Petitioners scheduled for hearing on December 27, 2018.<sup>1</sup>

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<sup>1</sup> The undersigned apologizes to the Court for his unavailability and asks that the matter be rescheduled or considered on the papers. The Timberlane defendants attempted to get New Hampshire counsel with a background in education law, but were unable to do so on short notice over the holidays. Thus, the undersigned felt it better to appear and submit papers than leave the Board unrepresented. However, it is not an emergency as there is insufficient time to notice a public hearing on the budget and there will be a statutory violation even if the Court grants petitioners their relief.

This request for clarification goes to the legitimacy of the SAU meeting with a chair who has lost all confidence of the members. Unless a new or temporary chair is appointed, any SAU meeting will be tainted and its outcome uncertain.<sup>2</sup>

1. On November 1, 2018 at its school board meeting, the Timberlane Regional School Board discussed the need for weighted voting and for a new chair on the basis that any requests for additional meetings were not only denied, but simply ignored. <https://livestream.com/TRSD/TRSB/videos/182935273> at 3:04:36 – 3:05:10; See also 2:41:45-2:42:11 (vice-chair of the SAU cannot get a response from the chair of the SAU).
2. A motion was made by representative Brian Boyle and seconded by representative Shawn O’Neil to have the Timberlane Chair request the election of officers be placed on the next SAU 55 meeting agenda. That motion passed 8-1-0. *Id.* at 2:47:07-2:49:12.
3. Subsequent to the vote, Susan Sherman (as chair of the Timberlane board) requested Jason Cipriano (the chair of the SAU board) to add the election of officers to the SAU 55 November 14, 2018 agenda.
4. The chair of the SAU made no reply to the request, and declined to add the election of officers to the agenda. Changing chairs after the organizational meeting is not a new concept for the SAU 55 board, and in June of 2014 the chair of the SAU 55 board resigned amongst controversy over non-public meeting discussions. Ironically, that chair was Mr. Cipriano, the current chair.

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<sup>2</sup> The substance of this motion will be brought as a counterclaim but due to the relief requested, had to be raised by motion in expedited fashion.

5. At the SAU 55 meeting of November 14, 2018, a motion was made to have a vote of no confidence and request Jason Cipriano resign as chair. The motion detailed the reasoning as on October 17, 2108, Mr. Cipriano misrepresented to the SAU board statements allegedly made by legal counsel and an inability to add agenda items.

{Facebook video<sup>3</sup>} at -18:18<sup>4</sup>.

6. Mr. Cipriano refused to acknowledge the motion and deemed same as out of order. *Id.* at -17:07.

7. Board member Jennifer Silva appealed the decision of the chair, which was seconded by board member Shawn O’Neil. *Id.* at -17:03. Mr. Cipriano reiterated that he ruled the motion as out of order, and heated discussion ensued.

8. Attorney O’Shaughnessy, (whom had been requested to be present for the meeting by the superintendent), interrupted to clarify the motion was to request resignation, not a motion to remove. *Id.* at -15:55. At that point, Mr. Cipriano allowed the motion.

9. The motion for a request of resignation and a vote of no confidence passed.

Petition Exhibit B..

10. Board member Shawn O’Neil made a motion to replace the chair, which was seconded by board member Kimberly Farrah. Facebook video at -9:44.

11. Mr. Cipriano ruled the motion as out of order, which decision was appealed again by board member Jennifer Silva. Mr. Cipriano unilaterally denied the appeal.

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<sup>3</sup> <https://www.facebook.com/KMain629/videos/10215123215185894/>

<sup>4</sup> This is a citizen recording of the SAU meeting posted publicly. There is no official video recording of the meeting available to the public.

12. Board member Jennifer Silva stated the next appropriate action of the chair should be to ask whether the decision is sustained. *Id.* at -9:00. Mr. Cipriano reiterated there was a ruling.

13. Mr. Cipriano was requested to ask the opinion of the board on this matter and he stated, “No opinion of the board is necessary.” *Id.* at 7:55.

14. Board member Jennifer Silva motioned to suspend the rules to allow board member Shawn O’Neil to make a motion not on the agenda. *Id.* at 6:40. Mr. Cipriano stated he will not entertain that motion.

15. Board member Shawn O’Neil made a motion to appoint Brian Boyle as chair. *Id.* at -5:44. The motion was seconded by Kimberly Farrah. As with all previous motions, Mr. Cipriano ruled the motion out of order, yet it is clearly visible from the video as having passed. There are 6 hands visible in the video, all of which are Timberlane. Assuming no other hands were raised, 6 Timberlane votes would equate to 145.98 out of 276 .

16. Board member Lee Dube then made a motion to temporarily suspend the chair for the evening. *Id.* at -5:00. Mr. Cipriano stated the rule does not apply.

17. At this point Attorney O’Shaughnessy was requested to weigh in, and he stated he was unfamiliar with a motion to temporarily suspend the chair. He then advised, “if that works for you guys, you got to get this meeting done and adopt a budget so I would urge you to figure it out. Jason, if that works for a meeting and that gets a budget passed and you guys can move forward, you do that.” *Id.* at -3:21.

18. It is clear that Mr. Cipriano is not acting in the best interest of the SAU board<sup>5</sup> as a whole and is unable to conduct a fair and impartial meeting. Accordingly, an alternate should be appointed for the purpose of ensuring an orderly meeting can occur and achieve the necessary means.

WHEREFORE, the Petitionees respectfully request this Honorable Court to clarify which board member, if any, would be the acting chair for the SAU 55 December 28, 2018 meeting.

By Their Attorney

/s/ John Kuzinevich, Esq.

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#### CERTIFICATE OF SERVICE

I, hereby certify that a copy of the foregoing motion was forwarded this 24<sup>th</sup> day of December, 2018 to all counsel of record.

/s/ John Kuzinevich, Esq.

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<sup>5</sup> Mr. Cipriano has taken no steps to insure representation for the SAU Board in this action - a clear conflict of interest.