

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.

**OBJECTION TO EMERGENCY EX PARTE PETITION FOR WRIT OF
MANDAMUS,
OR IN THE ALTERNATIVE PRELIMINARY AND PERMANENT
INJUNCTIVE RELIEF AND REQUEST FOR RESCHEDULED HEARING**

NOW COMES the Petitionees, the members of the Timberlane Regional School District, through their attorney LAW OFFICES OF JOHN KUZINEVICH, and objects to the Petitioners' emergency ex parte petition for writ of mandamus and request for preliminary and permanent injunctive relief and further requests the hearing be rescheduled.

1. The undersigned just got notice of this proceeding and cannot realistically prepare a response by the hearing set for December 27, 2018. It will be impossible to meet with the defendants prior to the scheduled hearing. In addition to being the Christmas weekend, the undersigned will be in Europe from 12/25 to 12/30 and cannot participate. Moreover, it would work a special hardship on Mr. Boyle as the undersigned has represented him and his family members for years.

2. Further this cases poses a complex set of facts, questions of good faith, the actions of the Chairman of the Petitioner and the overall interaction of all parties.

Counterclaims are anticipated. The Petitioners acknowledge the parties must work towards a budget yet the Petitioners do not agree with the Petitionees' view of the budget. However, mandamus or injunctive relief is unnecessary in light of this. In reality, it is the Petitioners who are refusing to work with the Petitionees by their Chair effectively controlling (even when patently wrong) all aspects of all meetings.

3. There is no emergency. Already, due to the late filing of this action, the Boards cannot fully meet statutory deadlines and appropriate notices. In this way, the Petitioners have created their own crisis, fueled in part by the Petitionees having no confidence in the Chair whose resignation they seek. In this regard, the Petitionees are willing to work out a process and procedure for the requisite meetings and votes, to be endorsed by the Court to cure any technical violations of statutory violations which may now arise.

4. The Petitioners basis for the claimed emergency is that the Hampstead School Board and Hampstead School District ("Hampstead") believe it will not have a quorum at the next SAU 55 meeting. This unfounded belief is not ripe for review and pre-mature. Hampstead's desire to have its board of 5 members represent a quorum when 8 are required is not an emergency. Moreover, the Petitionee intend to attend all properly noticed meetings and discharge their obligations as required.

5. The Petitioners failed to state an emergency. The SAU 55 budget is a line item within each member district's budget. The SAU does not have a default budget or separate warrant article to pass its budget. The SAU presented its proposed budget to both member districts, and each district incorporated the budget.

6. Hampstead failed to notify the Court at the most recent SAU 55 meeting, legal representation recommended to the chair to step down as chair for the evening if that is what works best for the board for the budget to get passed.

7. Timberlane Regional School District Board is an improper party for this petition against SAU 55. The Petition fails to claim a writ of mandamus or injunctive relief against the Timberlane Board, or its members in their official capacity as a member of the Timberlane Board, would resolve an SAU 55 budget issue.

WHEREFORE, the Petitionees respectfully request this Honorable Court to postpone any hearing until after January 4, 2019 and any other relief as the Court deems just and necessary.

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 21st day of December, 2018 to all counsel of record.

/s/ John Kuzinevich, Esq.