

Please see the following legal opinion. A member of our school community requested this be posted.

Since GWRSD is a cooperative school district, a citizen's petition for a special school district meeting is not valid unless signed by 5% of the voters. RSA 195:13.

**195:13 Meetings, Annual, Special.** – *A meeting of every cooperative school district shall be held annually between the dates set forth in RSA 197:1 for the choice of district officers, raising and appropriating money for the support of its schools for the fiscal year beginning the next July, and for the transaction of other district business. Special meetings may be called by majority vote of the school board. A special meeting shall be held within 30 days following the receipt by the school board of a petition calling for such a meeting and setting forth the subject matter upon which action is desired signed by at least 5 percent of the voters who are duly registered on the checklists of the district on the date the petition is submitted. The provisions of RSA 197, excepting the provisions of RSA 197:2, shall apply to cooperative school district meetings, except that a copy of the warrant shall be posted in a public place in each pre-existing district as well as at the place of meeting*

Even if you receive a petition with the required number of signatures, the school board is not required to call the special meeting, because RSA 189:15 gives the school board the authority to adopt regulations binding on staff and students. RSA 189:15 reads:

*The school board may, unless otherwise provided by statute or state board regulations, prescribe regulations for the attendance upon and for the management, classification and discipline of the school; and such regulations, when recorded in the official records of the school board, shall be binding upon pupils and teachers.*

Based on RSA 189:15, state law vests the authority to adopt the mask requirement, in the school board. The voters at the district meeting do not have the authority to overrule school board decisions in this area.

RSA 197:9 “gives the Superior Court the authority to order the board to call a special meeting “if the school board unreasonably neglect or refuse...to call a special meeting after sufficient application therefor is made...”

There are no New Hampshire Supreme Court cases interpreting this language in the context of a school board's refusal to call a special meeting. However, there is an identical requirement for town meetings, and there are cases interpreting the meaning of that language.

RSA 39:3 requires the selectmen of a town to call a special meeting when petitioned to do so by the required number of voters. RSA 39:3. RSA 39:9 provides that “if the selectmen unreasonably neglect or refuse to warn a meeting” when petitioned to do so, a justice of the Superior Court may issue the warrant for the meeting.

In Winchester Tax Payers' Ass'n v Board of Selectmen Town of Winchester, 118 NH 144 (1978), the Winchester selectmen refused to call a special town meeting. The town meeting had voted to appropriate money to hire an appraiser to reassess all taxable property. A couple of months later, the selectmen received a petition for a special school district meeting, asking: (1)

will the town vote not to accept the reevaluation of the real estate being made by the company in question; (2) will the town vote to use the prior assessment for the current tax year until a new reassessment can be done; and (3) to see what other actions the town will take to assure a fair and equitable reassessment of real estate within the town.<sup>[1]</sup> The Superior Court agreed that the selectmen did not have to call the special meeting.

In the Winchester case, the Supreme Court concluded that under the tax statutes, the selectmen, not the town, are charged with the duty to appraise all taxable property. Therefore, the Court was correct in saying that questions 1 and 2 were not within the authority of the town meeting because state law already vested that duty or authority in the board of selectmen. However, the Court found the selectmen should have called the special meeting to consider the third question, because it proposed only to see what other actions the town would take to assure a fair and equitable reassessment of the real estate. The Court pointed out that one of the actions available would be to have the town vote for assistance from the Commissioner of the Department of Revenue Administration. The Court explained further that a vote to have the commissioner or his staff assist in the appraisal would not modify the selectmen's duty to appraise all taxable properties.

The Supreme Court said:

“The master correctly concluded that only if the proposed articles are proper subjects for a town meeting, do the selectmen have any obligation to warrant a special meeting. Clearly the selectmen would be under no obligation to warrant a special meeting if the issue to be considered is prohibited or limited in scope by statute.”  
(underline mine) id. 148

There is one Superior Court case involving the Mascenic School District in which the Court followed the Winchester rule to find that a school board was not required to call a special meeting to second guess a non-renewal and other personnel decisions made by the school board because of the school board's authority to make those decisions.

\*Note

Several court cases regarding the authority of school districts to implement a mask requirement have been heard since this opinion was rendered and the authority of the school district to implement a mask mandate has been upheld in every one.