

**STATE OF VERMONT
STATE BOARD OF EDUCATION**

IN RE MILL SCHOOL RATE APPEAL

**HEARING OFFICER'S RECOMMENDED APPROVAL OF
SETTLEMENT AGREEMENT**

A prehearing conference was held on August 12, 2020 electronically. Mark Oettinger, Esq. represented the Appellant. Rachel Smith, Esq. represented the Agency of Education. Based, in part, upon the representations of counsel and a Settlement Agreement which is dated August 12, 2020 and was filed this same date, the Hearing Officer does:

1. **Approve the Settlement Agreement** This appeal concerned the per-student rate to be allowed the Mill School pursuant to their application for rate approval. The school applied for a per-student rate of \$72,457.22 on April 22, 2019. On August 26, 2019 the Agency allowed a rate of \$44,995.00 which was later slightly adjusted. The Mill School took an appeal to the State Board of Education pursuant to Rule 2228.8 (3) (b). The Stipulation establishes an agreed upon per-student rate for the school years 2018-2019 and 2019-2020 of \$66,783.24. The Mill School will not seek "additional recoupment from school districts for the 2018-2019 school year as a result of the rate change". The Stipulation establishes an agreed upon per-student rate for the school year of 2020-2021 of \$65,140.36. The Settlement Agreement speaks for itself and appears to be a comprehensive resolution of the case "with prejudice". For his part, the Hearing Officer does approve the Settlement Agreement and forward it on to the full Board for approval.
2. **Board Action** Because this matter was appealed to the Vermont State Board of Education as a contested case, it is the Board which must finally act upon the Settlement. 3 VSA Sec. 809(d) states, "Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default." The Settlement Agreement will have the force of a final resolution of a contested case if approved by the Board.

3. **Recommended Approval** Although the Hearing Officer did not hear evidence in this case, the agreement appears to be a compromise and was reached after the parties had opportunity to review the evidence which would have been presented at hearing. The parties worked diligently to exchange information and both parties agreed that the settlement is reasonable. It is the recommendation of the Hearing Officer that the Settlement Agreement be approved by the Board.

Dated this 13th day of August, 2020.

A stylized handwritten signature in blue ink, consisting of a large 'G', a colon, three vertical bars, and a '6'.

Hearing Officer for ~~the Vermont State Board of~~ Education

Cc. John Carroll, Chair of the Vermont State Board of Education
Rachel E. Smith, Esq. for the Agency of Education (by email)
Mark Oettinger, Esq. for The Mill School (by email)
Sarah Cloutier, Administrative Controller/Clerk (by email)