

AGENCY OF EDUCATION

Barre, Vermont

TEAM: Legal

ACTION ITEM: Will the State Board of Education approve a waiver requested by Essex Westford School District from the minimum number of student attendance days proscribed by 16 V.S.A § 1071?

ACTING SECRETARY'S RECOMMENDED ACTION:

That the State Board of Education vote not to approve Essex Westford School District's request for a waiver from the minimum student attendance days.

STATUTORY AUTHORITY: 16 V.S.A. § 1071

BACKGROUND INFORMATION:

State statute and Board Rules require each public school to operate for at least 175 days of student attendance. 16 V.S.A § 1071(a)(1); SBE Rule 2311. Within that minimum, superintendents establish a uniform calendar that includes school attendance days, periods of vacation, holidays, holidays and teacher in-service days. Rule 2311.4 provides that school districts shall include no fewer than five contingency days as annual school calendars are developed and adopted. Rule 2311.1 provides that days lost because a school is closed for emergency reasons prior to February 1 of any year shall be rescheduled and made up during that school year when such closing will result in a schedule of less than 175 pupil days of attendance days for the year.

Essex Community Education Center Union High School District #46 and the Center for Technology in Essex (CTE) were closed on February 1, 2018 due to a major water line break in Essex Junction. As a result of the break, some areas of the building had no water and some restroom facilities backed up. The administration learned of the break as students were arriving and sent them home at 10:00 a.m. due to the water issue and possibility of contamination. The high school and CTE were the only schools in the district that were closed. If granted, the students would have 174 days of attendance instead of the required 175 days. Superintendent Cobb has asked for a waiver citing hardship to families and financial burden of the district as the high school and CTE would be the only schools in session to make up the 175th day"

Because the unanticipated closing occurred in February and not earlier, the rule gives the Board discretion to consider the district's calendar to determine if a substantial number of contingency days were included. Rule 2311.3. Districts must build five additional days into the school calendar - presumably to avoid hardships associated with changing the calendar during the school year. Rule 2311.4. Had this been a weather event, all the schools would have to make up a fifth day to reach 175 student days. The basis of the waiver request is that requiring only some of the district's school to make up a fifth day imposes hardships and costs. In the Agency's view, this is

insufficient for a waiver. It is foreseeable that some events will affect only some of a district's schools. Moreover, this request does not comply with the statutory and regulatory requirement that a waiver petition "shall be filed with the State Board within 10 days of each occurrence." 16 V.S.A § 1071(c); Rule 2311.2. This petition was sent to the Board on March 28, 2018 – 55 days after the water line break.

POLICY IMPLICATIONS: Consistency across schools with regard to attendance days.

EDUCATION IMPLICATIONS: Assurance of sufficient and equal days of instruction.

FISCAL IMPLICATIONS: The district may incur some additional cost to run buses for one more day than anticipated, but no more than other schools that built a sufficient number of days into their calendars.

STAFF AVAILABLE: Molly Bachman, General Counsel