

**AGENCY OF EDUCATION**

**Barre, Vermont**

**TEAM:** Legal

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

**SECRETARY'S RECOMMENDED ACTION:**

That the State Board of Education vote not to approve Harwood Unified Union 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. Harwood Unified Union School District is asking for a waiver of four days for the Warren Elementary School. The reasons given are various. The discovery of mold during a 2017 summer renovation project delayed the opening of school by six days (August 28 and 29 and September 5 through 8). A roof failed, causing the school to flood. However, the school relocated temporarily during the school flooding event and no days were lost. In April, Town of Warren was hit by a wind storm that left most of the town without water or power for several days, but the school, which ran on a generator during that time, did not close. Thus, the occurrence that caused the unanticipated closing was the discovery and mediation of mold.

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." Accordingly, had the unanticipated closing occurred in February or later, the Board would have discretion to consider the district's calendar to determine if it included a substantial number of contingency days. Rule 2311.3. In this case – where the precipitating event occurred in August and September - the rule does not contemplate that discretion. Presumably this is because when the event happens early in the year there is more time to make up the lost days. Here, the district had from September to make up the four days.

**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 keep the Warren School open 4 days more than anticipated.

**STAFF AVAILABLE:** Molly Bachman, General Counsel