

AGENCY OF EDUCATION

Barre, Vermont

TEAM: Legal

ACTION ITEM: Will the State Board of Education approve a waiver requested by Lamoille North Supervisory Union 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 Lamoille North Supervisory Union'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.

Lamoille North Supervisory Union (LNSU) has petitioned the Board to waive the 175 school day requirement and allow it to operate only 174 days this school year. The SU's schools were closed on six scheduled days due to inclement weather. Superintendent Gallagher's request states that many of the school faculty are scheduled for professional development that would have to be postponed if school goes into the week of June 18. Expert facilitators have been hired for the training.

The petition does not identify the dates of closure, but we can presume that the last one – which triggered the need for a waiver – occurred after January. Thus, the Board discretion to consider the district's calendar to determine if a substantial number of contingency days were included - particularly if the cause is inclement weather. Rule 2311.3. As noted above, the SU built in five days as required by the rule. Because the petition does not identify the date of the sixth closing, it is not clear whether the timing of the petition complies with the statutory requirement that petitions "shall be filed with the State Board within 10 days of each occurrence." 16 V.S.A § 1071(c). The last closing would have to have occurred on March 20 or after for the petition to have been timely. The Superintendent makes a good argument for waiver, but hasn't included information necessary to determine it timeliness.

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

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

FISCAL IMPLICATIONS: The supervisory union will incur some additional cost to operate its school 2 days more than anticipated. This would also be true of other districts and supervisory unions that experienced snow days that require them to operate later into June than anticipated.

STAFF AVAILABLE: Molly Bachman, General Counsel