

AGENCY OF EDUCATION

Barre, VT

TEAM: Legal

ACTION ITEM: Will the State Board of Education approve a waiver requested by Orange Southwest 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 Orange Southwest 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, 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.

The Orange Southwest School District is seeking a waiver from the 175-day requirement. The reason offered is that inclement weather resulted in the district closing its schools on March 8. The District's letter provides no information regarding how many contingency days were scheduled, but since the rule requires a minimum of five, presumably this was the sixth closing of the year.

The law requires the petition for waiver to be filed with the State Board within 10 days of each occurrence. 16 V.S.A. § 1071(c)(the "petition *shall be* filed with the State Board within 10 days of each occurrence", emphasis added). The request is dated May 7, 2018 approximately two months after the March 8 closing. Since this statutory prerequisite was not met, the AOE recommends that it be denied.

There does not appear to be anything extraordinary here. Other schools experienced the same harsh conditions this winter. The request makes the point that the district has scheduled a training on June 13 and 14. Rescheduling will certainly be inconvenient – even a hardship, but the 175-day requirement is not new. The rule requires district to build additional days into the calendar presumably to avoid hardships associated with changing the calendar during the school year.

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 its schools open one day more than anticipated, but no more than other schools that have to schedule days beyond the anticipated end to the school year.

STAFF AVAILABLE: Molly Bachman, General Counsel