

AGENCY OF EDUCATION  
Barre, Vermont

**TEAM:** Legal

**ACTION ITEM:** Will the State Board of Education approve a waiver requested by Windsor Central Modified 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 Windsor Central Modified 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. 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.

The Prosper Valley School was closed on August 29, 30, and 31, 2018 due to a mold discovered in the gymnasium and several classrooms. In support of the waiver request, Superintendent Banios states that the district would need to compensate staff for an additional three days of work, add three days to its district-wide bus contract, and that making up these days will interfere district-wide professional development plans scheduled for the end of the year.

The rule requires district to build additional days into the calendar presumably to avoid hardships associated with changing the calendar during the school year. Had the unanticipated closing occurred in February or later, the rule gives 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. In this case, where the closing occurred very early in the school year and there is more time to make up the lost days, the rule does not contemplate discretion to waiver required school days. Rather, it provides that "[d]ays lost because schools are closed for emergency reasons prior to February 1 of any year shall be rescheduled and made up during that school year." Rule 2311.1

Moreover, a waiver is only available when the lost days “will result in a schedule of less than 175 pupil attendance days for the year.” Accordingly, the 3-day closure would put the school under 175 days only if it did not build in the requisite contingency 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 Prosper Valley School open 3 days more than anticipated, but no more than other schools that built a sufficient number of days into their calendars.

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