

AGENCY OF EDUCATION

Barre, Vermont

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?

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, 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.

Braintree Elementary School was closed on January 3 and 4, 2018 due to a failed pipe that flooded most of the school with up to two inches of water. In support of the waiver request, Superintendent Millington says that a waiver for unanticipated closing "would prevent the financial and logistical hardships associated with adding an additional two-days to the academic calendar for one of the district's five schools."

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 in early January and there is more time to make up the lost days, the rule does not contemplate that discretion, but rather 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

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 Braintree School open 2 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