



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
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September 29, 2006

TO: Local and Intermediate School Superintendents, Public School
Academy Directors, and Nonpublic School Administrators

FROM: Carol Wolenberg, Deputy Superintendent *Carol*

SUBJECT: Update on the Northern Warehousing, Inc. vs. State of Michigan,
Department of Education Lawsuit

The purpose of this message is to provide an update concerning the most recent ruling issued by the Michigan Court of Appeals in the matter of Northern Warehousing, Inc., vs. State of Michigan, Department of Education.

On October 11, 2006, Judge Nettles Nickerson will hold a hearing on our motion to dismiss the case. We hope she will act promptly, but there is no guarantee that a decision will be made on that date, favorable or unfavorable. Until at least the time of that hearing, the Michigan Department of Education (MDE) will refrain from making any decision regarding the reestablishment of the consortia originally formed for the distribution of U.S. Department of Agriculture (USDA) commodity food products.

There is some good news for the districts in the consortia in the regions affected by the lawsuit. MDE has received clarification from the USDA about the 2005-06 commodity allocation balances that remained at any processor for which the consortia had a contract but for which MDE did not. Individual consortium members will be able to access these carryover balances in SY 2007-08. Further, should MDE be able to reinstate the consortia at any time during SY 2006-07, these carryover balances will become immediately available to members for their use.

We will report the results of the upcoming hearing as soon as we know what the next steps are. All of us at MDE appreciate your patience and understanding as we work through the difficulties of maintaining credible child nutrition programs while at the same time managing the events of the lawsuit.

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