

RELEASED-TIME RELIGIOUS INSTRUCTION  
PROGRAMS FOR PUBLIC SCHOOL STUDENTS

SUGGESTED GUIDELINES

FOR THE

IMPLEMENTATION

OF

ACT 175 OF 1982

PENNSYLVANIA CATHOLIC CONFERENCE

DECEMBER, 1982

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# ACT 175

## BACKGROUND

Act 175 resulted from the enactment of Senate Bill 706 (P.N. 1826). This legislation was passed by the House in May of 1982, approved by the Senate in June of 1982, and signed by the Governor on June 24, 1982.

Act 175 amends Section 1546 of the Public School Code relating to the “release of pupils for religious instruction.”

The newly enacted “released-time” statute (copy of Act 175 enclosed - **Addenda “A”**) provides that public school officials, upon the written request of parents, shall excuse the children of such requesting parents for a total of not more than 36 hours per school year in order to attend classes for religious instruction.

The previous released-time statute limited the release of students for religious instruction to one hour per week. The previous statute also made the release of the students dependent entirely upon the decision of public school officials rather than upon the choice of the parent, who, of course, has primary responsibility for the child’s overall education.

Act 175 permits the same amount of time for released-time religious instruction, but, by not limiting the configuration in which the 36 hours can be used for religious instruction, the newly enacted statute creates additional potential for flexibility in released-time religious instruction programs. In short, released-time religious instruction programs for public school students can now be scheduled according to the availability of competent religious instructors, particularly if such are not available for an hour a week during the school day.

In addition, the new law clearly recognizes the parents’ primary responsibility for the overall education of their children by making the release of the students, for the religious instruction program, dependent upon the preference of the parent, rather than the decision of a public school administrator.

Based upon data collected by PCC on released-time religious instruction programs in operation in the mid 1970’s, it seemed quite clear that very few Catholic public school students were receiving religious instruction through a released-time program.

It is difficult to predict exactly what effect Act 175 will have on religious instruction programs for public school students. However, it does seem possible that some creative and interesting programs can be offered through blocking the 36 “released hours” in various time configurations. For instance, some possible utilizations of the “released hours” might be the following:

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### BACKGROUND, CONT'D

- 1) On the elementary level, students might be released for a few half days, or full days, in the fall and the spring in order to concentrate on specific sacramental preparations. Obviously, these preparations could be done in conjunction with the regular catechetical program that is conducted outside of school-day hours.
- 2) On the secondary level, perhaps students could be released for a full day on six different occasions throughout the school year for purposes of religious instruction in the form of a day of recollection or a one-day retreat. Such programs could be totally distinct from the regular catechetical instructional program that occurs outside of school-day hours - or obviously the programs could be coordinated with the regular catechetical programs for public school students.
- 3) On both the elementary and the secondary level, students might be released for a two or three day retreat, perhaps in connection with specific religious holidays, such as Christmas or Easter. Again, such religious programs could be coordinated with the regular weekly catechetical program that takes place outside of school-day hours.

Obviously, the above suggestions are only a few of many possible utilizations of the new statute in providing religious instruction programs for Catholic children in public schools.

### RATIONALE FOR ACT 175

It is clearly recognized that a child's religious education is an integral part of his or her total educational growth and development.

Thus the rationale for Act 175 was a need to provide opportunity for religious instruction programs for public school students in conjunction with the regular schedule of hours set aside for children's education and schooling. In short, the opportunity is created for devoting 36 hours, or approximately six days, of a child's public school attendance requirement each year to religious instruction and formation. Both secular and religious educational goals can be accommodated in a child's normal school attendance requirement.

The rationale for the legislation recognizes further that parents are primarily responsible for their children's total education and growth, which clearly includes both the secular and the religious dimension.

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## GUIDELINES

The following guidelines are offered as suggestions to consider in utilizing the provisions of the newly enacted released-time religious instruction statute:

### A) RELIGIOUS EDUCATION ADMINISTRATOR

- 1) Ideally, the religious education administrator, after planning the religious instruction program to be administered to Catholic students in public school under Act 175, should communicate to the public school superintendent the dates upon which the released-time religious instruction program will be conducted.

#### COMMENT:

Ideally, the public school superintendent should be informed of the date or dates for a released-time religious instruction program as early as possible. The spring preceding a school year is the optimum time for such communication.

If possible, it certainly will make sense for the religious education administrator to meet with public school officials (superintendent and/or principal) to discuss the timing of the released-time religious instruction program. The point of such discussion will simply be an attempt to avoid **unnecessary** and harmful conflict with other planned programs or activities for the public school students. Obviously, conflicts with some public school programs or activities might have a detrimental effect on attendance at released-time religious instruction programs.

It is clear that not all conflicts can be avoided, but it is also clear that unnecessary conflicts with some public school **activities** or programs such as a class trip or a major testing program will result in some parents and students failing to agree to participate in the released-time religious instruction program.

If the initial meeting or discussion is conducted with the Superintendent of the public school district, it is suggested that this individual be asked whether the religious education administrator should contact a particular school principal directly in planning the scheduling of the released-time religious instruction program.

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### GUIDELINES, CONT'D

In some situations, the religious education administrator might not be able to give the optimum advance notification to public school officials about the planned dates for the released-time religious instruction program. If such notification cannot be done in the spring preceding a school year, then the public school officials should be informed about the religious instruction program as far as possible in advance of such program. As a general rule, such notification should never occur less than 30 days prior to the administration of the released-time religious instruction program.

In short, in fairness to public school officials and public school students, adequate advance notice should be given with respect to the planned released-time religious instruction program in order to insure optimum attendance.

- 2) The religious education administrator should inform the public school administrator as to which agency or entity will be responsible for the released time religious instruction program.

### COMMENT:

This would merely involve specifying that the diocese, or a particular parish, is responsible for administering the released-time religious instruction program to the public school students that will be absent from public school in order to attend the program.

Such information and notification will help the parents meet the legal requirement that they “shall identify and describe” the released-time religious instruction program. It will also generally contribute to the credibility of the religious instruction program.

- 3) The religious education administrator should inform the Catholic children in public school, and their parents, about the planned released-time religious instruction program. An attempt should be made to motivate both the students and their parents so that they are interested in participating in the religious instruction program.

### COMMENT:

It seems obvious that, in order to have a successful released-time religious instruction program, it will be essential that both the students and their parents are motivated to want to participate in the program.

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### GUIDELINES, CONT'D

Such informing and motivating, which currently goes on in the process of enrolling public school students in catechetical or religious instruction programs that do not involve a “release from public school,” can follow existing communication patterns with Catholic children in public school, and their parents.

- 4) After informing and motivating the parents, the religious education administrator should request the parents to write a letter to the public school superintendent stating that they wish their children to be excused from school on specified dates in order to participate in the released-time religious instruction program.

### COMMENT:

This meets the requirement of the law that states “the superintendent of the school district shall, upon the written request of a parent,” excuse children of such parents from school attendance in order to attend classes for religious instruction.

It is suggested that the religious education administrator, in order to facilitate the program, prepare form letters for the parents to sign, requesting that their children be excused in order to attend the religious instruction program on the specified dates. (See Addenda “B” page 16).

Please note that the sample form letter for the parent includes the parent’s authorization for the religious education administrator to serve in *loco parentis* to attest, following the completion of the program, to the child’s attendance at the religious education program session(s). This approach for the verification of the students’ attendance should be preferred by the public school administrator, the parent, and the religious education administrator, since such approach will eliminate the necessity for another letter from all the parents. (Also, of course, the religious education administrator is actually the only one who will be able to attest to a student’s attendance at the religious instruction sessions.)

The religious education administrator can then send or deliver the letters from the parents to the public school superintendent, thereby specifying which children will be absent from school in order to participate in the released-time religious instruction program. (See Addenda “C” page 17). Obviously, another alternative, perhaps less effective overall, would be to have the parents write and send their individual letters.

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### GUIDELINES, CONT'D

- 5) The religious education administrator, perhaps through religious instructors, will have to keep accurate **attendance records** so that it is known precisely which students attended which sessions.

#### COMMENT:

All students, whose parents request the “release” of their children from public school in order to attend the religious instruction program, will have to be accounted for during the hours that they are released from public school to attend the religious instruction program.

If a student, who is enrolled in the released-time religious instruction program, is absent from the religious instruction class or exercise without known reason, the parent or guardian of the child should be contacted immediately.

Students should be required to provide a written excuse from their parents if they are absent from the released-time religious instruction program.

- 6) Following the released-time religious instruction program, the religious education administrator shall communicate with the public school superintendent to attest that specific students did attend the religious instruction on the dates and hours when the religious instruction program occurred.

#### COMMENT:

Based upon the accurate attendance records that are important for the religious instruction program, the religious education administrator shall write to the public school superintendent to report the students’ attendance at the various sessions of the religious instruction program. (Addenda “D” page 18). In so reporting, obviously the religious education administrator should indicate the reasons why students were not in attendance, if some students did not attend the religious instruction and if in fact the reasons are known. (Copies of the parent’s written excuses should be submitted to the public school superintendent with the letter of attendance verification.)

The follow up attendance verification letter should obviously be a positive public relations gesture, thanking the public school superintendent for cooperation and accurately accounting for the students that were excused from public school attendance to participate in the religious instruction program.

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Another alternative in attesting to attendance will be to simply request the parents to send their own letter to the public school superintendent. However, this procedure may prove less than satisfactory in that some parents may fail to provide the necessary assurance of attendance. It will also be a “paperwork burden” for the public school administration.

- 7) The religious education administrator must provide reasonable care and supervision for the released-time students when these students are participating in the religious instruction program.

#### COMMENT:

With respect to the “reasonable care and supervision” of the released-time religious instruction students, we have secured a legal opinion from PCC legal counsel. It is attached to the guidelines as “Addenda E” (page 19).

Note the conclusion of the legal memorandum which suggests that “each church should check with its insurers to assure that all possible risks are covered.”

In short, it is important to realize that “released” public school students, following proper parental request, are no longer the responsibility of public school officials.

The religious education administrator should be careful that potential liabilities incurred in dealing with religious education students are covered or provided for, as likely is the case in current “non-release” religious education programs.

### B) PROGRAM

#### COMMENT:

- 1) The content of the released-time religious instruction program is entirely the domain of the religious education administrator and the sponsoring diocese or parish. The program content is in no way subject to scrutiny or approval by the public school superintendent.

The state, in the person of the superintendent or another local public school official, has absolutely no jurisdiction to evaluate the content of the religious instruction program. To involve the public official in this type of supervision or approval would obviously involve “entanglement” between government and church.

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### GUIDELINES, CONT'D

Although the statute provides that the parental request “shall identify and describe the instruction,” this need only require that parents and/or religious education administrators give a topical description of the religious instruction being provided in the program.

Religious education administrators will clearly wonder whether liturgical celebrations can be part of the overall religious instruction program. The answer to this question is clearly AFFIRMATIVE.

As noted earlier, the state has no jurisdiction to decide what is or is not “religious instruction.”

It is entirely obvious to religious educators that liturgical celebrations have an educational dimension, from the viewpoint of understanding, illumination, and growth.

Thus released-time religious instruction programs can be scheduled “around” specific religious holidays, with the program clearly including liturgical functions.

In short, the religious educator, officially representing the local diocese and/or parish, is the sole determinant of the content of the released-time religious instruction program.

- 2) The sponsoring agency (diocese or parish), responsible for the religious instruction program, is solely responsible for arranging to have religious instructors participate in the released-time religious instruction program.

### COMMENT:

The sponsoring diocese or parish has total discretion in establishing or applying criteria for religious instructors in staffing the religious instruction program.

The state has no jurisdiction whatsoever in establishing criteria or qualifications for religious instructors participating in the released-time program.

- 3) The sponsoring agency (diocese or parish) is solely responsible for deciding which instructional materials, if any, will be utilized in the released-time religious instruction program.

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### GUIDELINES, CONT'D

#### COMMENT:

Just as the state has no authority to dictate or “meddle in” the content of the program, so also the state has no authority to decide which instructional materials (books etc.) shall be utilized in the program.

- 4) The sponsoring agency (diocese or parish) shall have total discretion in deciding where the released-time religious instruction program shall be conducted.

#### COMMENT:

While the sponsoring or administering agency has discretion in deciding where the released-time religious instruction program will be conducted, it must be remembered that religious instruction programs cannot be conducted on public school premises. This, of course, is the result of the Supreme Court McCollum decision, which specifically prohibits religious instruction on public school premises.

Although the state cannot dictate or decide where the religious instruction program will be conducted, the program administrator must remember that the administering agency does “come under a duty to provide reasonable care and supervision for the released time pupils when these pupils enter upon church property.” (See paragraph 3 of Addenda “E” page 18).

- 5) The released-time religious instruction program cannot require that public school students be released more than 36 hours during a school year in order to participate in the religious instruction program.

#### COMMENT:

The maximum number of hours for which a parent can request the release of his or her child from public school for participation in religious instruction programs is 36 hours during the entire year. Obviously release from public school for religious instruction can be sought for less than 36 hours, depending upon the particular program requirement.

It is important for religious educators to realize that “released students” should be required to attend the exercises of the religious instruction program during the time that the student is “released” from public school for such purpose.

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### GUIDELINES, CONT'D

In short, religious educators should generally not dismiss “released” students during the period of time that these students have been officially released from the public school for purpose of participating in a religious instruction program. (Having students released from public school for periods of time substantially greater than that for which the religious instruction program is scheduled will only seriously risk the overall credibility of the released-time religious instruction program.)

Since the 36-hour provision relates to “release from public school,” obviously any necessary travel time from the public school to the site of the religious instruction will be included in the 36 hours. In short, the 36 hour provision relates to “release from public school” and not specifically to the time duration of the religious instruction program.

### C) PARENTS

- 1) Parents who want their children to participate in a released-time religious instruction program, must submit a written request to the public school superintendent to have their child or children excused from attendance at the public school in order to attend the released-time religious instruction program.

#### COMMENT:

As noted earlier, the sponsoring agency (diocese or parish) should inform the parents of Catholic children in public school about the religious instruction program. Such parents should be motivated to want to have their children participating in the released-time religious instruction program.

Following the information and motivation, parents should be helped in requesting the release of their children from public school for participation in the religious instruction program. Such help to the parents is probably most easily supplied in the use of a form letter (See Addenda “B” page 16), containing the date, time, and topical information on the religious instruction program. Parents can insert the name or names of their children and sign the letter, which can then be submitted to the religious education administrator for transmittal to the public school superintendent.

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### GUIDELINES, CONT'D

- 2) Parents assume responsibility for their children during that period of time when the students are released from public school in order to participate in a religious instruction program.

#### COMMENT:

This means that, after the public school superintendent has excused students in order to attend a religious instruction program, parents are responsible for seeing to it that the students attend the religious instruction program.

If a student has been released from public school to attend a religious instruction program, but, because of illness, is unable to attend the religious instruction program, the parents are responsible to notify the administrative staff of the religious instruction program that the student is unable to attend because of illness. This notification should occur at the projected starting hour for the religious instruction program so that the religious instruction administrator can account for all of the public school students that were released in order to attend the religious instruction program. (Clearly, no matter what the reason for a student's inability to attend the released-time religious instruction program, parents should communicate with the administrative staff of the religious instruction program in all situations.) Obviously the parent assumes responsibility for transporting the child to the site of the released-time religious instruction program, unless such transportation is included in the total religious instruction program. (Of course, public school transportation cannot be utilized to transport students to and from the site of the religious instruction program.)

- 3) Following the released-time religious instruction program, parents are responsible to attest to the public school superintendent, in writing, that their children did in fact attend the religious instruction on the dates when the children were released from public school for the specific purpose of attending the religious instruction program.

#### COMMENT:

If the initial parent letter, requesting an excused absence for the child from attendance at public school, includes the authorization for the religious education administrator to serve "in loco parentis" in order to attest to the student's attendance at the religious instruction sessions (as in Addenda "B" page 16) then obviously it is not necessary for the parent to write the attendance attestation letter. The religious education administrator will verify the attendance and in effect account for all of the public school students that were released from public school in order to attend the particular religious instruction program.

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### GUIDELINES, CONT'D

If the religious education administrator is not authorized to serve in loco parentis to attest to the attendance at the religious instruction sessions, then obviously parents should be requested to write a letter to the public school superintendent to attest to the child's attendance at the religious instruction sessions.

### D) STUDENTS

- 1) After students are excused from attending public school for the precise purpose of participating in the religious instruction program, it is obvious that the students will be required to attend the religious instruction program.

The religious education administrator must be diligent in accounting for all of the students released from public school in order to attend the religious instruction program. If strict attendance records are not kept for the religious instruction program, it is obvious that some students may be tempted to use the "religious instruction" excuse in order to be released from public school, then pursuing endeavors or activities other than religious instruction during the time when released from the public school. These types of abuses, which might result from shoddy record-keeping practices by the religious education administrator, can do serious harm to the overall credibility of the released-time religious instruction statute and its basic purpose.

- 2) With respect to the student, academic requirements, liturgical involvement, dress and conduct standards, will be left to the discretion of the administering agency of the religious instruction program. Beyond attendance, the state will not apply academic or discipline standards to the students participating in the religious instruction program under the utilization of the released-time statute.

### COMMENT:

As is currently the case in religious instruction programs for "non-released" public school students, the authorities responsible for the religious instruction program will set the standards for the students with respect to academic requirements, liturgical involvement, and dress and conduct codes.

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### GUIDELINES, CONT'D

- 3) Students may not be penalized or punished in any way for participating in the Act 175 released-time religious instruction program.

#### COMMENT:

Although the students, when “released,” will miss some public school classes, these students are to be given ample opportunity to make up the missed class-work or assignments. They should have the same opportunity for make-up of missed school work as applies in various instances of absence, such as for sickness.

In short, the “released” students should in no way be discriminated against because of their participation in the religious instruction program. (Any instances of discrimination or penalty to the students should be reported immediately to the religious education administrator, who should bring such discrimination to the attention of the appropriate public school administrator, presumably the Superintendent of Schools with whom the dates for the “released” program were planned and to whom the parents communicated in requesting the legally-permitted excused absence.)

# ACT 175

## THE TEXT OF THE ACT

### ACT 175 OF 1982 GENERAL ASSEMBLY OF PENNSYLVANIA

#### AN ACT

Amending the act of March 10, 1949 (P.L. 309 No.14). entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto, "further providing for release of pupils for religious instruction.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1546, act of March 10, 1949 (P.L. 30# No. 14), known as the "Public School Code of 1949," is amended to read:

Section 1546. Release of Pupils for Religious Instruction.

The superintendent of the school district shall, upon the written request of a parent or other person in loco parentis, excuse any student who is the child of that parent or person in loco parentis from school attendance for a total of not more than thirty-six hours (36) per school year in order to attend classes for religious instruction: Provided, however, that the request shall identify and describe the instruction, and the dates and hours for which the absence is requested and that the parent or person in *loco parentis* shall, following each such absence, furnish in writing to the superintendent of the school district a statement attesting that the child did in fact attend the instruction and the dates and hours upon which such attendance took place.

*Section 2.* This act shall take effect in 60 days.

SIGNED BY GOVERNOR THORNBURGH ON JUNE 24, 1982

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August 31, 1982

MEMORANDUM TO: Mr. Henry J. Aschenbrenner  
Deputy Executive Director  
Pennsylvania Catholic Conference

RE: Act 175 of 1982

In your memorandum of August 13, 1982, you raise a number of questions regarding the "liability dimension" of the new released time statute.

The statute, as enacted, authorizes school superintendents to excuse students from public school attendance upon written request of the child's parent. This means that the public school will discharge pupils from its supervision and control, when requested to do so by parents, in order that the pupils can attend religious instruction.

The church and/or the religious education instructor will ordinarily come under a duty to provide reasonable care and supervision for the released time pupils when these pupils enter upon church property. If the church should provide transportation to the released time instruction, the potential

If the church is not transporting the pupils, it should make clear, in writing, to the parents of the pupils that they will be responsible for transportation.

Each church should check with its insurers to assure that all possible risks are covered.

BALL & SKELLY

By \_\_\_\_\_  
Kathleen A. O'Malley

KAO/JR

## PENNSYLVANIA CATHOLIC CONFERENCE

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November 29, 1990

Ms. Peg Mallin  
Religious Education Coordinator  
Holy Cross Church  
7100 W. Ridge Road  
Fairview, PA 16415

Dear Ms. Mallin:

This letter is sent in response to your recent telephone inquiry about whether students should in fact lose a "perfect attendance" record because of attending a religious education program and being excused from public school attendance as authorized by Act 175 of 1982.

In response to your inquiry, I point to Section 11.21 of Chapter 11 of the State Board of Education regulations. Chapter 11 deals with "pupil attendance" and, under Section 11.21(c) it is stated that "there shall be no penalty attached to an absence for religious holidays or instruction".

We were involved in the drafting and passage of this legislation and also had considerable consultation with the office of the Secretary of Education (Dr. Scanlon at that time) to discuss the thrust and working of the overall program. It was always clear to us that there is to be no penalty whatsoever for students who legally absent themselves from public school for participation in a religious instruction program. The absence is clearly excused and it is not marked on report cards that will in any way mar a pupil's perfect attendance record, lest there be a type of penalty attached for participation in the program.

I hope this response is helpful to you. It is clear to me that authorities in the Pennsylvania Department of Education, and many school districts across the Commonwealth, are in agreement that the students can be absent from public school for these religious instruction programs without marring an otherwise perfect attendance record. In short, the students who are absent for religious education instruction cannot be denied a certificate or award for perfect attendance in a school year or career.

*The Public Affairs Agency of the Catholic Dioceses of Pennsylvania Since 1960*

## Chapter 11 - 6

## §11.20. Nonimmunized children.

- (a) No child may be admitted to or permitted to attend the public schools unless the child has received Immunizations required by the Department of Health at 28 Pa. Code Chapter 23 Subchapter C (relating to immunization) or has received from the school district superintendent a medical or religious exemption from immunization under 28 Pa. Code §23.84 (relating to exemption for immunization).

A child who has not received all doses of the required Immunizations or who has not been exempted from immunization, but who has received at least one dose of each of the required immunizations, may be provisionally admitted and attend public school for a period of up to 8 months. Provisional admission or continued attendance shall be conditioned upon the parents' or guardian's submission to the superintendent of a plan for the pupil's completion of the required immunization doses. The plan shall be reviewed by the school district at least every 60 calendar days. If after 8 months, the child has not received all doses of the required immunizations, the child thereafter may not be further admitted to or be permitted to attend the public schools until all doses have been received.

- (c) No school age child may be admitted to or permitted to attend a private, nonpublic special education, or vocational school unless the immunization, exemption, or provisional admission requirements of the Department of Health at 28 Pa. Code Chapter 23, Subchapter C have been met.
- (d) A child who has been admitted to school or permitted attendance in violation of this section may not be counted toward receipt of Commonwealth reimbursement for the period of the admission or attendance.

## ABSENCES FOR TEMPORARY PERIODS

## §11.21 Religious holidays and religious instruction.

- (a) Upon written parental request, and in accordance with the policies of the district's board of school directors, pupils may be excused from school for religious holidays observed by bona fide religious groups.
- (b) Upon written parental request, a pupil shall be excused from school in order to attend classes for religious instruction under Section 1546 of the Public School Code of 1949 (24 P.S. 15-1546). The excusal shall be limited to a total of not more than 36 hours per school year.
- (c) A pupil's absence from school for religious holidays or for religious instruction shall be recorded as an excused absence. There shall be no penalty attached to an absence for religious holidays or instruction.