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SPECIAL REPORT

MANY PUBLIC SCHOOLS HAVE ACT 80 DAYS IN THEIR CALENDAR.

CAN CHRISTIAN SCHOOLS DO THE SAME?

SHORT ANSWER: No, it is not a legal option, but something better is legal.

DETAILED ANSWER: According to the laws of Pennsylvania a public school, under Act 80, can use a few of their 180 days of school for faculty training and a few other activities. They may also use half days and early dismissal days. Students are not present.

An Act 80 day is allowed only if the public school has their required instructional time (which is different from time present on site) as required for a year. The stated annual minimum amounts are 450 hours for kindergarten, 900 hours for elementary, and 990 hours for secondary.

Beyond these two requirements, the Secretary of Education is to approve only those requests which come from a “meritorious educational program.” In other words, he is to do some evaluation.

For the public school to use a day for Act 80 activities they must apply to the State Superintendent of Schools for permission no later than September 30 of a school year. Five specific activities are eligible for consideration for an Act 80 application: (1) parent-teacher meetings, (2) curriculum planning and development, (3) long-range planning, (4) in-service programs dealing with new subjects or activities having an impact on the educational program, and (5) a special type of orientation affecting kindergarten students. Act 80 days are not allowed “time lost due to inclement weather, mechanical or power failures, or other causes not provided for in the school laws” or for situations like a work stoppage by teachers.

In summary, the public school can conduct school for the students for less than 180 days per year as long as: (1) they dedicate their staff time to specific activities, (2) they meet the minimum number of instructional hours as required, (3) pass the evaluation of the Secretary for being meritorious, and (4) have the Secretary of Education’s permission.

In contrast, first, a Christian school is not a public school and should not want to be one. Second, Christian schools really do not want to place themselves in a position wherein the Secretary of Education passes judgment on the quality of their education. Christian schools do not want this “carrot” because with the carrot will come “the stick.”

RELIGIOUS SCHOOLS HAVE SOMETHING FAR BETTER. Religious schools have Act 78 of 1986. The Religious School Bill, for which KCEA labored in the legislature for eight years, contains a well-planned provision that religious schools must either conduct school for 180 days (with the definition of “day” written elsewhere – 5 & 5.5 hours of instruction) or 900 & 990 hours of instruction annually.

1. The public school must apply for permission to have fewer days than 180 days – for any reason. A religious school has that right without asking.
2. The public school must be evaluated to see if they are meritorious. A religious school does not have to establish its quality.
3. The same common sense definition of “instructional time” applies to them and to us. We have no complaint.

PRACTICAL CAUTIONS. With this liberty come significant responsibilities.

1. Do not shortcut your instructional hours. Figure them accurately and honestly. There are beneficial activities, activities that a good school will plan into its program, that do not meet the definition. This would include, but not be limited to, adequate time to eat, time for social interaction, recess, after-school clubs and activities, and homework.
2. Do not see how close to the minimum annual hours of instruction one can come without going below that number. Don’t see how close to being criminal you can be without crossing the line. A school is charged with providing a good, quality education, and “time-on-task” is one of the important ingredients.
3. While religious schools can legally operate with fewer than 180 days (each with the required minimum hours of instruction), the smaller the school the more it is ill advised to use this alternative. A small school faces significant public relations problems with parents and the public if accused of shortcutting the school year. It appears ill advised for even a Christian school with 300 to 600 students to conduct classes for fewer than 176 to 178 days.

OUR AUTHORITY. Attached is a four-page government document that is the official explanation of Act 80 provisions. Our attorneys at Ball, Murren & Connell point to this document as the document that summarizes the law accurately.

You will note that the definition of “instructional time” mirrors the KCEA Special Report of February, 1994, titled, “The PA Christian School 180 Day School Year.”

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Instructional Time and Act 80 Exceptions 24 P.S. Section 15-1504

Basic Education Circular

SUBJECT: Instructional Time and Act 80 Exceptions
24 P.S. §15-1504

DATE OF ISSUE: March 24, 2000 **DATE OF EXPIRATION:** June 30, 2003

REPLACES: Instructional Time and Act 80 Exceptions, BEC 24 P.S.
§15-1504 issued September 1, 1997

All public schools are to be open each school year for at least one hundred eighty (180) days of instruction for pupils. The number of instructional hours in a school year is to be at least 450 for half-time kindergarten, 900 for full-time kindergarten and elementary, and 990 for secondary. Exceptions to the requirement for 180 days of instruction or to the daily school hours may be made based upon Section 1504, as amended by Act 80 of 1969.

No school shall be kept open on any Saturday for the purpose of ordinary instruction, except when Monday is fixed by the board of school directors as the weekly holiday (which would require that school be scheduled Tuesday through Saturday for the entire school term).

22 Pa. Code §11.27 provides pupils in graduating classes up to three days for graduation preparation under the supervision of certificated school employees. The Secretary of Education has determined that graduation practice days must be scheduled within 60 calendar days of the commencement ceremony and that graduation practice can be scheduled on a regular instruction day or on a Saturday. Since no other instructional activities can be conducted on Saturday, only the hours for the graduation practice can be counted as pupil instructional time.

State Board of Education Regulations, Chapter 11, Section 11.2 School day, defines instruction time for pupils as time in the school day devoted to instruction and instructional activities provided as an integral part of the school program under the direction of certified school employees. For the purposes of determining if an activity, other than instruction of curriculum, conducted during school hours can be counted as

instructional hours in lieu of ordinary instruction, the Department has defined the following:

Activities which may be counted as pupil instruction time:

1. Pupil personnel services, such as guidance and counseling services, psychological services, speech pathology and audiology services, and pupil health services conducted during school hours,
2. Opening exercises, homeroom periods, and supervised study halls,
3. Assemblies, clubs, student councils, and similar activities conducted during school hours,
4. School, group or class educational trips, if accompanied by a certificated school employee,
5. Civil defense, fire and other similar drills,
6. Kindergarten orientation activities, snack-time and play-time if they are an integral part of the kindergarten curriculum (Note: "Recess" time conducted with the same parameters as primary grade recess is not counted as instructional time),
7. For pupils in graduating classes, up to three days for graduation preparation under the supervision of certified school employees. Graduation preparation may be held on Saturdays, and
8. Early dismissal and delayed opening due to inclement weather.

Activities which may not be counted as pupil instruction time:

1. Lunch period: however, an exception is made for special education students identified as moderately to severely handicapped if their Individualized Education Program includes teaching social and motor skills related to meal-time activities such as the use of eating utensils,
2. Recess and time for passing from class to class,
3. Early dismissal or delayed opening for reasons other than inclement weather,
4. Teacher meetings dealing with routine matters, such as record keeping responsibilities, and other similar activities,
5. Transportation of pupils; for example, time spent transporting students to an area vocational-technical school,
6. Celebrating, picnicking, hunting, fishing, or harvesting crops,
7. Any activity for which admission is charged to students, and
8. Viewing or reviewing material that has as its purpose the marketing of commercial products.

Section 1504, as amended by Act 80 of 1969, authorizes the Secretary of Education to grant an exception to the 180-day requirement or to the daily schedule "when in his opinion a meritorious educational program warrants." The requirement for minimum instructional hours for the school year must still be met. For purposes of granting approvals for Act 80 exceptions for a shortened school year or a shortened school day, the Department of Education has

defined the following:

Activities which may be approved for an Act 80 exception:

1. Parent-teacher meetings,
2. Curriculum planning and development,
3. Long-range planning,
4. In-service programs dealing with new subjects or activities having an impact on the educational program, and
5. Dismissal at the start of the school year of a partial group of kindergarten students while an orientation program is being conducted for another part of the group of current year kindergarten students.

Requests for approval of an Act 80 exception should be made by completing the "PDE-4085 Request for Section 1504 (Act 80) Exception" form. Area vocational-technical schools should complete the PDE-4085A "Request for Section 1504 (Act 80) Exception-AVTS" form. Procedures for requesting approval are as follows:

1. The proposed request must be approved by the local school board and submitted under the signature of the school district superintendent, area vocational-technical school director, or intermediate unit executive director, as appropriate.
2. The request shall include the date of each requested exception.
3. The request shall include the reason for each requested exception.

There is no limit on the number of Act 80 exceptions that may be requested as long as the required minimum instructional hours for the school year are met. Requests for Act 80 approvals should be submitted prior to the date of the Act 80 activity; however, Act 80 approvals will be considered for approval if submitted before September 30 following the end of the school year.

The approval cannot be used for time lost due to inclement weather, mechanical or power failures, or other causes not provided for in the school laws. In the event that unforeseen circumstances warrant a rescheduling of the school year and a school district, area vocational-technical school or intermediate unit elects not to exercise its Act 80 approval, the number of instructional days required reverts back to 180 days or 180 days minus the number of full-day or half-day Act 80 approvals used.

Approval will not be granted for Act 80 days where there has been a work stoppage by teachers. In addition, any Act 80 days approved by the department will be rescinded upon initiation of a work stoppage.

REFERENCES:

Purdon's Statutes

- 24 P.S. §5-503
- 24 P.S. §15-1501
- 24 P.S. §15-1502

24 P.S. §15-1503
24 P.S. §15-1504

State Board of Education Regulations

22 Pa. Code §11.1
22 Pa. Code §11.2
22 Pa. Code §11.3

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