



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
Dr. R. Scott Ralls, President

REPLY TO:
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August 2, 2010

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents
Community College Boards of Trustees Chairs
Community College Admissions Officers
Community College Registrars
NC Community College System Office Staff
Other Interested Parties

FROM: Q. Shanté Martin
General Counsel

SUBJECT: **Legislative Action Related to School Absences for Religious Observances**

On 20 July 2010, the General Assembly amended N.C.G.S. § 115D-5 to add a subsection that provides the following:

The State Board of Community Colleges shall direct each community college to adopt a policy that authorizes a minimum of two excused absences each academic year for religious observances required by the faith of a student. The policy may require that the student provide written notice of the request for an excused absence a reasonable time prior to the religious observance. The policy shall also provide that the student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance.

N.C.G.S. § 115D-5(u) (2010); S.L. 2010-112, s. 2. **The legislation requires that community colleges have policies in place for the 2010-2011 academic year.** I advise each community college to develop a policy to allow school absences for religious observances consistent with the

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requirements in N.C.G.S. § 115D-5(u); S.L. 2010-112, s. 2. In addition to the specific provisions delineated by the General Assembly, I advise that colleges consider the following when adopting policies to comply with N.C.G.S. § 115D-5(u); S.L. 2010-112, s. 2:

1. In my legal opinion, to avoid potential claims of discrimination, I do not think that colleges should either define the term “religious observance” or delineate activities that constitute an acceptable “religious observance.”
2. If colleges currently have policies that do not permit excused absences for any student, in revising policies to implement the religious observance requirement, I advise that colleges provide the same number excused absences for religious and non-religious observances to avoid potential claims of discrimination.
3. Colleges should be cognizant of the fact that although the bill title uses the words “Religious Holiday,” the actual language of the legislation uses the words, “religious observances.” Thus, I advise that your policies use the term “religious observance” rather than “religious holiday.”
4. Although the General Assembly stated that students are authorized to have a *minimum* of two excused absences, I think that it is prudent for a college to specify the exact number of excused absences it is going to allow.
5. I advise that colleges require that students provide a written request to have an excused absence for a religious observance.
6. I think that colleges should specify a reasonable time within which a student must provide advance notice of the request to have an excused absence.
7. If a college is going to require specific information from a student related to his or her request for an excused absence for religious observances, it would be helpful for colleges to create a form that includes all of the information the college requires from the student requesting an excused absence for a religious observance.
8. To help facilitate professors’ schedules and workload, I advise that colleges require students to work with their professors in advance of the excused absence to delineate how to make up missed work.
9. When the General Assembly stated that students are authorized to have a minimum of two excused absences, they did not delineate whether a “minimum of two excused absences” constituted excused absences for a minimum of two college classes or excused absences for a minimum of two days of classes. To be consistent with the intent of the General Assembly, I advise that colleges specify in their policy that students have a minimum of two days of excused absences.

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For your convenience, a copy of N.C.G.S. § 115D-5(u); S.L. 2010-112, s.2 is attached to this memorandum. Please be sure to share this information with all those affected.

Attachment

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 357*
Senate Education/Higher Education Committee Substitute Adopted 6/30/10
Third Edition Engrossed 7/6/10

Short Title: School Absence for Religious Holidays.

(Public)

Sponsors:

Referred to:

March 3, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION, THE STATE BOARD OF COMMUNITY COLLEGES, AND THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ADOPT RULES OR POLICIES PERTAINING TO RELIGIOUS HOLIDAYS AND THE ACADEMIC WORK MISSED BECAUSE OF THE OBSERVANCE OF THOSE HOLIDAYS AND TO DIRECT PUBLIC SCHOOLS TO INSTRUCT STUDENTS ON THE SIGNIFICANCE OF MEMORIAL DAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-379 reads as rewritten:

"§ 115C-379. **Method of enforcement.**

It shall be the duty of the State Board of Education to formulate the rules that may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe (i) what shall constitute unlawful absence, (ii) what causes may constitute legitimate excuses for temporary nonattendance due to a student's physical or mental inability to attend or a student's participation in a valid educational opportunity such as service as a legislative page or a Governor's page, and (iii) under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State.

The rules shall require school principals to authorize a minimum of two excused absences each academic year for religious observances required by the faith of a student or the student's parents. The rules may require that the student's parents give the principal written notice of the request for an excused absence a reasonable time prior to the religious observance. The student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance.

It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein."

SECTION 2. G.S. 115D-5 is amended by adding a new subsection to read:

"(u) The State Board of Community Colleges shall direct each community college to adopt a policy that authorizes a minimum of two excused absences each academic year for religious observances required by the faith of a student. The policy may require that the student provide written notice of the request for an excused absence a reasonable time prior to the



1 religious observance. The policy shall also provide that the student shall be given the
2 opportunity to make up any tests or other work missed due to an excused absence for a
3 religious observance."

4 **SECTION 3.** G.S. 116-11 is amended by adding a new subdivision to read:

5 "(3a) The Board of Governors shall direct each constituent institution to adopt a
6 policy that authorizes a minimum of two excused absences each academic
7 year for religious observances required by the faith of a student. The policy
8 may require that the student provide written notice of the request for an
9 excused absence a reasonable time prior to the religious observance. The
10 policy shall also provide that the student shall be given the opportunity to
11 make up any tests or other work missed due to an excused absence for a
12 religious observance."

13 **SECTION 4.(a)** G.S. 115C-12(33) reads as rewritten:

14 "(33) Duty to Develop Recommended Programs for Use in Schools on Memorial
15 Day. – The State Board of Education shall develop recommended
16 instructional programs that enable students to gain a better understanding of
17 the meaning and importance of Memorial Day. All schools, especially
18 schools that hold school on Memorial Day, shall ~~recognize~~ instruct students
19 on the significance of Memorial Day."

20 **SECTION 4.(b)** The State Board of Education shall report to the Joint Legislative
21 Education Oversight Committee by January 15, 2011, on the instructional programs developed
22 in accordance with G.S. 115C-12(33), as rewritten by subsection (a) of this section.

23 **SECTION 5.** This act is effective when it becomes law and applies beginning with
24 the 2010-2011 academic year.