

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 370
PROPOSED COMMITTEE SUBSTITUTE S370-PCS15264-TC-23

Short Title: Respect for Student Prayer/Religious Activity.

(Public)

Sponsors:

Referred to:

March 20, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY STUDENT RIGHTS TO ENGAGE IN PRAYER AND RELIGIOUS
3 ACTIVITY IN SCHOOL, TO CREATE AN ADMINISTRATIVE PROCESS FOR
4 REMEDYING COMPLAINTS REGARDING EXERCISE OF THOSE STUDENT
5 RIGHTS; AND TO CLARIFY RELIGIOUS ACTIVITY FOR SCHOOL PERSONNEL.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 115C of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 29D.

10 "Student Prayer and Religious Activity.

11 "**§ 115C-407.30. Student rights to engage in prayer and religious activity.**

12 (a) A student shall be permitted to voluntarily do any of the following:

- 13 (1) Pray, either silently or audibly and alone or with other students, to the same
14 extent and under the same circumstances as a student is permitted to vocally
15 or silently reflect, meditate, or speak on nonreligious matters alone or with
16 other students in public schools.
- 17 (2) Express religious viewpoints in a public school to the same extent and under
18 the same circumstances as a student is permitted to express viewpoints on
19 nonreligious topics or subjects in the school.
- 20 (3) Speak to and attempt to share religious viewpoints with other students in a
21 public school to the same extent and under the same circumstances as a
22 student is permitted to speak to and attempt to share nonreligious viewpoints
23 with other students.
- 24 (4) Possess or distribute religious literature in a public school, subject to
25 reasonable time, place, and manner restrictions, to the same extent and under
26 the same circumstances as a student is permitted to possess or distribute
27 literature on nonreligious topics or subjects in the school.
- 28 (5) Organize prayer groups, religious clubs, "see you at the pole" gatherings, or
29 other religious gatherings before, during, and after school to the same extent
30 that students are permitted to organize other noncurricular student activities
31 and groups. Religious groups shall be given the same access to school
32 facilities for assembling as is given to other noncurricular groups without
33 discrimination based on the religious content of the students' expression. If
34 student groups that meet for nonreligious activities are permitted to advertise
35 or announce meetings of the groups, the school district shall not discriminate
36 against groups that meet for prayer or other religious speech. A local board



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1 of education and local school administrative unit may disclaim school
2 sponsorship of noncurricular groups and events in a manner that neither
3 favours nor disfavors groups that meet to engage in prayer or religious
4 speech.

5 (6) Express beliefs about religion in homework, artwork, and other written or
6 oral assignments free from discrimination based on the religious content of
7 the submission. Homework and classroom assignments shall be judged by
8 ordinary academic standards of substance and relevance and against other
9 legitimate pedagogical concerns identified by the local board of education. A
10 student shall not be penalized or rewarded based on the religious content of
11 the student's work.

12 (b) A student may be prohibited from engaging in the actions provided in subsection (a)
13 of this section if the actions of the student would do any of the following:

14 (1) Infringe on the rights of the school to (i) maintain order and discipline, (ii)
15 prevent disruption of the educational process, and (iii) determine educational
16 curriculum and assignments.

17 (2) Harass other persons or coerce other students to participate in the activity.

18 (3) Otherwise infringe on the rights of other persons.

19 **"§ 115C-407.31. Administrative remedies and cause of action for complaints regarding**
20 **exercise of religious activity.**

21 (a) If a student alleges that a right established under this Article has been violated by a
22 public school, the student or the student's parent or guardian shall state the complaint to the
23 school's principal, who shall meet with the student or the student's parent or guardian, if
24 requested.

25 (b) If the student's concerns are not resolved by the meeting with the principal, the
26 student or student's parent or guardian may make a complaint in writing to the superintendent
27 of the local school administrative unit with the specific facts of the alleged violation. The
28 superintendent shall investigate and take appropriate action to ensure the alleged violation of
29 the rights of the student is resolved within 30 days of receiving the written complaint.

30 (c) If the superintendent fails to resolve the student's concerns within 30 days, the
31 student or student's parent or guardian may appeal to the local board of education as provided
32 in G.S. 115C-45.

33 (d) If a right of a student established under this Article is violated by a public school
34 and the student has exhausted the administrative remedies provided in this section, the student
35 may assert the violation as a cause of action or defense in a judicial proceeding and obtain
36 appropriate relief against the local board of education. The action shall be brought in the
37 superior court of the county in which the local school administrative unit is located.

38 (e) No action may be maintained pursuant to this Article unless the student has
39 exhausted the administrative remedies provided in subsections (a) through (c) of this section.

40 (f) A student prevailing in a claim brought against a local school administrative unit for
41 a violation under this Article or any action brought by a public school against a student for
42 conduct covered by this Article shall be entitled to reasonable attorneys' fees and court costs.

43 (g) The Attorney General shall intervene and shall provide legal defense of this Article
44 in any action which includes claims challenging the constitutionality of this Article.

45 **"§ 115C-407.32. Religious activity for school personnel.**

46 (a) Nothing in this Article shall be construed to support, encourage, or permit a teacher,
47 administrator, or other employee of the local board of education to lead, direct, or encourage
48 any religious or antireligious activity in violation of that portion of the First Amendment of the
49 Constitution of the United States prohibiting laws respecting an establishment of religion.

50 (b) Local boards of education may not prohibit school personnel from participating in
51 religious activities on school grounds that are initiated by students at reasonable times before or

1 after the instructional day so long as such activities are voluntary for all parties and do not
2 conflict with the responsibilities or assignments of such personnel.

3 (c) School employees supervising extracurricular activities, including coaches, may be
4 present while a student or group of students exercises their voluntary right to pray as provided
5 in G.S. 115C-407.30 and, if present, shall not be disrespectful of the student exercise of such
6 rights and may adopt a respectful posture.

7 (d) Nothing in this section shall prohibit local boards of education from allowing school
8 personnel to participate in other constitutionally permissible religious activities on school
9 grounds.

10 **"§ 115C-407.33. Limitations of Article.**

11 This Article shall not be construed to direct any local board of education to take any action
12 in violation of the Constitution of North Carolina or the United States. The specification of
13 rights in this Article shall not be construed to exclude or limit religious liberty or free speech
14 rights otherwise protected by federal, State, or local law."

15 **SECTION 2.** G.S. 115C-47(29b) is repealed.

16 **SECTION 3.** If any provision of this act or its application is held invalid, the
17 invalidity does not affect other provisions or applications of this act that can be given effect
18 without the invalid provisions or application, and to this end the provisions of this act are
19 severable.

20 **SECTION 4.** This act is effective when it becomes law.