

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 370  
Education/Higher Education Committee Substitute Adopted 5/8/13  
Third Edition Engrossed 5/9/13  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S370-PCS15433-RQ-25

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



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1 or announce meetings of the groups, the school district shall not discriminate  
2 against groups that meet for prayer or other religious speech. A local board  
3 of education and local school administrative unit may disclaim school  
4 sponsorship of noncurricular groups and events in a manner that neither  
5 favours nor disfavors groups that meet to engage in prayer or religious  
6 speech.

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

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

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

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

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

21 **"§ 115C-407.31. Administrative remedies and cause of action for complaints regarding**  
22 **exercise of religious activity.**

23 (a) The local board of education may establish or make available an existing formal  
24 grievance process to allow students or the parents or guardians of students to present  
25 allegations that a right established under this Article has been violated by a public school. The  
26 formal grievance process shall include the right of appeal to the local board of education.

27 (b) If a local board of education fails to provide a formal grievance process, the  
28 following process shall be provided:

29 (1) A student or a student's parent or guardian shall state the complaint to the  
30 school's principal, who shall meet with the student or the student's parent or  
31 guardian, if requested.

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

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

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

46 (d) No action may be maintained pursuant to this Article unless the student has  
47 exhausted the administrative remedies provided in subsections (a) and (b) of this section.

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

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

3 **"§ 115C-407.32. Religious activity for school personnel.**

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

8 (b) Local boards of education may not prohibit school personnel from participating in  
9 religious activities on school grounds that are initiated by students at reasonable times before or  
10 after the instructional day so long as such activities are voluntary for all parties and do not  
11 conflict with the responsibilities or assignments of such personnel.

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

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

19 **"§ 115C-407.33. Limitations of Article.**

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

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

25 **SECTION 3.** If any provision, sentence, or clause of this act or its application is  
26 held invalid, the invalidity does not affect other provisions or applications of this act that can be  
27 given effect without the invalid provisions, sentences, or clauses, or application, and to this end  
28 the provisions of this act are severable.

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