

Resolution on Accommodating Religious Observances
Commission on Faculty Affairs
CFA 2019-20A

First reading, Commission on Faculty Affairs	September 13, 2019
Approved, Commission on Faculty Affairs	November 1, 2019
Faculty Senate Review	October 25, 2019
Staff Senate Review	October 21, 2019
Graduate Student Assembly Review	October 14, 2019
Student Government Association Review	October 22, 2019
Approved, University Council	February 3, 2020
Approved, President	February 3, 2020
Effective date	Upon approval

WHEREAS, students have expressed concerns to the Student Government Association (SGA) and Graduate Student Assembly (GSA) about Virginia Tech guidelines regarding absences for religious holidays; and

WHEREAS, some students have been compelled to attend classes during Yom Kippur, Maha Shivaratri, Eid, and other days of religious significance that require fasting, prayer, or repenting; and

WHEREAS, Virginia Tech seeks to put into practice the affirmations outlined in our Principles of Community, including mutual understanding, civility, and the value of human diversity; and

WHEREAS, students seek a broader definition of “religious holiday” that encompasses religious, cultural, ethnic, meaning-making, and faith-based beliefs; and

WHEREAS, though Virginia Tech faculty support the accommodation of religious beliefs, as well as the broader definition of religious holidays in the previous statement, they are not in a position to verify absences for religious observances; and

WHEREAS, the Jewish Student Union, Graduate Student Assembly, Student Government Association, and Hillel at Virginia Tech were involved in the creation of and support this resolution; and

WHEREAS, the Asian American Student Union, HokiePRIDE, the Latin American Student Organizations, the Muslim Student Union, Native at VT, Sigma Gamma Rho Sorority, the Sikh Student Association, and the Black Organizations Council support this resolution; and

WHEREAS, the Office of the Dean of Students supports this resolution; and

WHEREAS, the Commission on Equal Opportunity and Diversity supports this resolution; and

WHEREAS, the resolution maintains faculty member's ability to uphold the academic integrity of their courses while providing more guidance for students and faculty in dealing with the issue of religious absences; and

WHEREAS, though the Office of the Dean of Students can currently provide absence verification (advocacy) for "illness or death of a family member or friend, off-campus medical appointments or hospital admission, court subpoenas, and military orders," the Faculty Handbook does not include this information and it is added here; and

NOW, THEREFORE, BE IT RESOLVED, that religious observances will be added to the list of matters for which students can seek advocacy by the Dean of Students Office through the absence verification process; and

BE IT FURTHER RESOLVED, that the third paragraph of subsection 9.6.2 of the Faculty Handbook will be combined with 9.6.2.1 and revised as follows:

Current Faculty Handbook language:

9.6.2 (3rd paragraph):

When students cannot attend a class, it is their responsibility to make arrangements for any work missed as soon as possible. In cases of prolonged absences, students may ask their academic deans or the dean of students to notify their instructors of the reason for their absence. Staff members from the Office of the Dean of Students may verify absences from class for students who have documentation to support an absence beyond their control. The staff members send an absence verification notice to the college dean, who then forwards the verification to faculty members. A staff member from the Office of the Dean of Students reinforces that the student is responsible for contacting the faculty member to arrange make-up of any missed work.

9.6.2.1 (in its entirety):

Consistent with the university's tradition of religious tolerance, faculty are encouraged to be sensitive to students who wish to observe religious holidays. The student is responsible for requesting and providing justification for a religious accommodation, preferably during the first two weeks of classes or as soon as the student becomes aware of the need for an accommodation. Faculty should inform students of their willingness to make accommodations for reasonable requests. Faculty are not required to compromise the academic integrity of the course to accommodate religious practices. Thus, the faculty member determines accommodations for religious practices that are consistent with his or her class attendance policy.

Proposed Faculty Handbook language:

9.6.2 in its entirety (with new 3rd and 4th paragraphs in quotes):

Class meetings are an integral part of most courses and the central component of many. Therefore, both faculty and students are expected to meet at all regularly scheduled times, except for cancellations announced on a university-wide basis by appropriate authority.

If a faculty member cannot meet a class, departmental procedures should be followed so that appropriate measures are taken to provide for the missed class.

“If a student cannot attend a class, they may notify their instructor(s) directly or contact the Office of the Dean of Students, whose staff can provide advocacy through its absence verification process. The Office of the Dean of Students considers absence verification for any of the following reasons: illness or death of a family member or friend; off-campus medical appointments or hospital admission; court subpoenas; military orders; and observances of religious, cultural, ethnic, meaning-making, or faith-based beliefs. Staff members send an absence verification notice to the college dean, who then forwards the verification to the instructor(s). If upon a good faith evaluation an instructor believes that accommodating an absence negatively affects the course of study, students can contact the Office of the Dean of Students for continued advocacy and guidance. Students are responsible for making arrangements with the instructor as soon as possible to complete any work missed due to absence. If this work differs from the original exam or assignment, it must be appropriately related to course objectives and no more difficult than the original.

Faculty determine their attendance policy, including whether they will accommodate absences and how they will do so. However, in accordance with the Virginia Tech Principles of Community, faculty are encouraged to accommodate students when the observance of religious, cultural, ethnic, meaning-making, or faith-based beliefs conflict with academic requirements. Students who choose to request an excused absence directly from their instructor(s) due to a religious observance should do so during the first two weeks of classes or as soon as they become aware of the need for an accommodation.”

Policy 5600, “Authorized Closings,” defines the process followed with the university is affected by inclement weather, natural disasters, emergencies and other conditions that may cause operations to be suspended or curtailed. University employees should consult Policy 4305, “Policy on Compensation. During Authorized Closings,” for specific expectations in the event of a closure and information about supervisor/employee responsibilities, leave usage, and compensation.

AND BE IT FINALLY RESOLVED that the Hokie Handbook and all other relevant documents will be updated to reflect these changes.



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Student Government Association comments on Resolution Commission on Faculty Affairs 2019-20A

On behalf of the undergraduate student body,

The Student Government Association of Virginia Tech recognizes and supports the unique religious, cultural and ethnic holidays celebrated by students across the Virginia Tech community. As the Student Government Association passed legislation last year in support of accommodations for students celebrating their holidays, we now support the Commission of Faculty Affairs' legislation 2019-20A supporting students who are asked to attend classes or related activities during times of celebration. It is important to highlight that, while many christian holidays align with the academic calendar, many other religious holidays do not. This can lead students to feel marginalized or discriminated against.

In order to best support these students, we must acknowledge everyone's individual needs and work to support students affected by this issue.

Thank you,
Student Government Association at Virginia Tech

Dear Provost Clarke--

During winter break, we should rest and join our families for a time of appreciation. Hokies from across our country will sit down together, count blessings, and give thanks for family, for health, and many of the small things we take for granted throughout the year.

We are bound together with those we call family at Virginia Tech. Our Hokie family observes different faiths and celebrates different holidays, but we all share the same values of service and discovery.

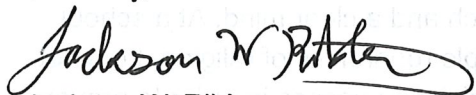
Now is a time to remember that some students have observances that are not conveniently placed during Winter break. And this year, we know that Jewish, Muslim, Sikh, and other students face challenges in verifying absences that put their identities and freedoms sorely out of reach. For this reason, I am writing to urge your support for Resolution CFA 2019-20A in the University Council meeting this February.

This may seem to some as a bold, new idea. But in fact, it is an appeal to much older values that lay at the foundation of this Commonwealth with Jefferson, Madison, and Washington. It is the standard practice of most of our peer institutions to better accommodate students seeking to live out their identity through these observances. This resolution has garnered wide support because it will alleviate burdens from both students and faculty.

So when we gather this season with our family and friends, let us also use this break to rededicate our commitment to building a more peaceful and prosperous future that every student can enjoy here at Virginia Tech. Let us replenish our energies and summon a new spirit of service to students of all creeds.

Thank you for your leadership within our university. I hope that this year will lead us to many new, exciting horizons.

Sincerely,



Jackson W. Ribler

Jewish Student Union, President

P.S. Thank you for your providing info to the
Order of the
Gavel!



"My name is Briana Schwam and I am a Jewish student here at Tech in the College of Liberal Arts and Human Sciences. Virginia Tech is supposed to embrace diversity and ensure equality for all students. I do not believe that Virginia Tech has fulfilled its duty of being a welcoming and accommodating school for all religions. Students of all backgrounds should have accommodations for observing religious holidays.

Last semester, during Rosh Hashanah, a Jewish holiday, I gave a professor over a week's notice to let her know that I would not be in class because I would be observing the holiday and attending services. My professor told me that this was unacceptable, that I would not be excused, and therefore, my attendance grade would be penalized. I kindly explained to her what this holiday was without much progress. I was frustrated to have to plead the validity of my own holiday to faculty. This not only happened to me but numerous students. No student of any religion should have to go through what I went through or feel depreciated and penalized for their identity. I personally had to plead my case with the Associate Dean of my college, a position that I was very uncomfortable in. This process would be best handled by the Dean of Students Office.

I support this resolution which will create a fair and sensible process for students to receive an absence verification for culturally significant and religious observances.

"My name is Lauren Cantor. I am a sophomore architecture student here at Virginia Tech. Growing up practicing the Jewish faith, I have been raised to miss school for high holidays in order to attend services. This year was the first year that I have been unable to do so. I missed class for Rosh Hashana without being excused last Fall, and as a result, I did not have the resources to miss class for Yom Kippur, the holiest day in the Jewish calendar. It is the one day of the year where I can atone for my sins by fasting and attending a day of prayer. It is strange that classwork that could have been made up before or after the holiday would supersede a sacred day that cannot be rescheduled. Even still, I had to fast while attending my classes and give a presentation after not eating or drinking for about 20 hours. I can't help but think that I would have presented better on another day with a full stomach and a clear mind. At a school that prides itself on being accepting and welcoming to all people regardless of religion, I did not feel accepted on Yom Kippur last year. I hope this piece of legislation passes in order to prevent any other students from feeling uncomfortable to practice on religious holidays from Yom Kippur to Eid. Faith is an essential part of my identity and not feeling comfortable in a highly educated setting to practice it makes me want to see change happen."



"My name is Leor Clark and here is an email from one of my professors after I told her I would miss class for Yom Kippur (with notice far in advance):

'Thank you for letting me know. I apologize for the conflict, but with the university open tomorrow, there are no real options for making up missed attendance points (there is actually not an in-class summary due; that was a typo on the syllabus that has been corrected on the new version posted in Canvas). A shame that you cannot be there, however, as the session on interviewing is pretty important.

The one other consideration is that I will be returning comments on resumes for the final revision, which is due next week. I can send you an electronic copy if you are certain that you will not make it to class tomorrow.'

Virginia Tech does not make exceptions for religious students who are not Christian. So, I skipped this class and accepted the 0 on my attendance. Had there been a process from the Dean of Students Office in place, this faculty member would have realized their capability to accommodate me."

"My name is Mollie Dickler, and this year a professor denied my request to miss a class and makeup work for Yom Kippur. I believe that I gave the faculty member enough time to accommodate me but I did not feel comfortable further arguing my case after my initial request was denied. Having the Dean of Students step in in situations like these would have been of great help, and I sincerely hope that you will support this proposal."



Religious Observance Policies for Students						
	Functional Elements					
University	Policy Last Approved	Strongly Encourages faculty	Obliges Faculty	Central Office for verification	Relies on a Calendar	RFRA* in this State
Current: Virginia Tech	2019	x			x	x
University of Virginia	2016		x	x		x
Virginia Commonwealth University	2018	x				x
Penn State	2019	x		x	x	x
Florida State	2015		x		x	x
UNC - Chapel Hill	2018		x	x	x	x
NYU	2018		x		x	x
Proposed Virginia Tech Policy	2020	x		x	x	x

https://drive.google.com/file/d/1LFQhfwI2OCXhh2s_Bke4bgHqw_biMO-Q/view?usp=sharing

*The Religious Freedom Restoration Act is a set of laws passed in different states that require demonstration of a compelling reason where a public post-secondary school fails to provide an accommodation to student who observes the holidays.

Groups that have confirmed their support: Student Government Association, Sikh Student Association, Muslim Student Union, Native at Virginia Tech, Black Organizations Council, Faculty Senate, Graduate Student Assembly, HokiePRIDE, Latin American Student Organizations, Asian American Student Union, Sigma Gamma Rho, and Jewish Student Union.

SCHOOL & WORKPLACE ACCOMMODATIONS FOR THE JEWISH HIGH HOLIDAYS: KNOW YOUR RIGHTS & OBLIGATIONS

COLLEGES & UNIVERSITIES

Generally, public post-secondary schools have a greater legal obligation to accommodate students who observe the High Holidays compared to students at private colleges and universities. In either situation, students should review and follow school policies on how to request a religious accommodation for the High Holidays. A student request for an accommodation to professors or administrators should be made well in advance of the High Holidays – even if classes are not in session. Advanced notice of the need for an accommodation helps ensure that important assignments, tests or events are not calendared on the High Holidays. And in situations where a college or university is not legally required to provide an accommodation for the High Holidays, such notice gives administrators the time to develop or approve an accommodation.

PUBLIC COLLEGES & UNIVERSITIES

Is a Public Post-Secondary School Required to Accommodate a Student's Observance of the High Holidays?

The Free Exercise Clause of the First Amendment and certain state laws will in many situations require public colleges and universities to allow students time off from classes without penalty for observance of the High Holidays. This means that in addition to permitting the student to be absent from class, the post-secondary school should give a reasonable amount of time for the student to make up any missed assignments or tests.

Specifically, if a college or university allows students to be absent from classes without penalty for secular reasons such as sickness or a death in the family, the Free Exercise Clause requires a post-secondary school to demonstrate a compelling reason in order to justify denial of a similar accommodation for a student who observes the High Holidays. Called the "strict scrutiny" standard, this is the most stringent of constitutional standards. Under such circumstances, it is highly unlikely that a college or university can meet this standard. A public post-secondary school failing to meet this standard will be required to accommodate a student's observance of the High Holidays.

Furthermore, twenty-two states have laws called Religious Freedom Restoration Acts (RFRAs).¹ These laws also require demonstration of a compelling reason where a public post-secondary school fails to provide an accommodation to student who observes the High Holidays. For the purposes of these laws, it is irrelevant whether denial of the accommodation is based on a rule or practice that neutral towards religion - meaning that it does not differentiate between religious and secular activity. So the stringent "strict scrutiny" standard will apply to the denial even where a college or university does not allow student absences without penalty for sickness, a death in the family, or any other secular reason.

Additionally, certain state laws specifically require public colleges and universities to provide students time off without penalty for religious observances. More generally, local or state laws prohibiting religious discrimination in "public accommodations" may cover public colleges and universities, and require them to provide students accommodations for the High Holidays.

PRIVATE COLLEGES & UNIVERSITIES

Is a Private Post-Secondary School Required to Accommodate a Student's Observance of the High Holidays?

Generally, private colleges and universities are not legally required to provide students with religious accommodations for observance of the High Holidays or other religious practices. However, certain state or local laws prohibiting religious discrimination in "public accommodations" or other contexts may cover private post-secondary schools and require them to provide students accommodations for the High Holidays. Furthermore, students should closely review school policies and handbooks. Language in such documents that affirm equality of opportunity, prohibit discrimination, or allow for religious accommodations may create a contractual duty for the college or university to provide a student an accommodation for the High Holidays.

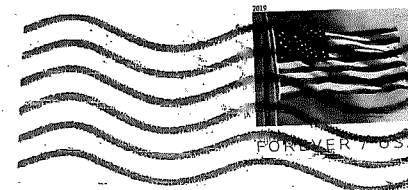
PROVIDED BY: Civil Rights Division

¹ The twenty-two states are Alabama, Alaska, Arizona, Connecticut, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Washington, and Wisconsin.

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