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APC Response to Religious Observance Accommodations Charge sent by FS to APC in 2023

Charge Question 1: Where appeals should go if a student or employee (faculty) does not feel that they have been discriminated against based on their religion but are nevertheless unsatisfied with the accommodations provided to them;

Response/Recommendation: There are current grievance policies for faculty, staff, and students. It seems reasonable that when the concern does not seem to be discrimination, faculty, staff, and students follow those established procedures.

We thus recommended that

- faculty who feel that the accommodations provided were not adequate may file a grievance following the grievance policy identified in the Faculty Handbook (<https://catalog.salisbury.edu/content.php?catoid=10&navoid=377#grievance>)
- staff faculty who feel that the accommodations provided were not adequate may file a grievance following the grievance policy identified in the Staff Handbook (<https://www.salisbury.edu/administration/administration-and-finance-offices/human-resources/files/pdfs/Staff-Employee-Handbook.pdf?v=20231118004452>)
- students who feel that the accommodations provided were not adequate may file a grievance following the grievance policy identified by the Office of Academic Affairs (<https://www.salisbury.edu/administration/academic-affairs/grievance-policy.aspx>).

Note: These policies do not permit a quick final resolution. A final resolution may not occur until after the date for requested accommodations would have passed, but any policy permitting multiple levels of review would take significant time.

Charge Question 2: Whether the advanced notification of at least two weeks from faculty is adequate. If the two week notification is not adequate, the APC should recommend what is adequate notice;

Response/Recommendation: Given that the dates for numerous religious observances are known well in advance (Eid Al-Fitr, Diwali, Rosh Hashanah, Shogatsu, for example), notice could be given well in advance. Advance notice should permit advance planning. In case course scheduling is a consideration, we recommend that when possible, notification be given at the beginning of the semester. When the observance is not established far in advance, we recommend that the two week notice be continued.

We recommend that in approximately 3 years, the Faculty Senate, with the APC, conduct a review of this policy and, in that review, include a consideration of the effectiveness of these deadlines.

Charge Question 3: Whether the advanced notification to the faculty of at least two weeks from students is adequate. If the two week notification is not adequate, the APC should recommend what is adequate notice;

Response/Recommendation: Some accommodations (missing every Friday of a course for example) could likely be significantly detrimental to student success in the course or significantly alter the course. In such cases, it could be advisable that the student take a different section of a course, take the course during a different semester, or take a different course. Course schedules cannot be changed after the end of drop/add, which typically ends at 5 pm at the end of the 1st week of classes. To have time to make schedule changes, a student would need to be aware of the concern well before the drop/add deadline. After a student is made aware of the concern, the student would need time to consider that information, review schedules, and make any changes. Hence any conversation with the faculty member regarding the requested accommodations would need to occur well before the drop/add deadline at the beginning of a semester.

The dates for a number of religious holidays are known at least a year in advance. For such holidays, we thus recommend that students inform faculty of their requests for accommodations, in writing, as far in advance of the end of drop/add as possible.

Some religious observances other than holidays, may not permit planning so far in advance. In those cases, to ensure that the faculty member has some time to consider and to plan appropriate accommodations, we suggest the deadline in writing, no later than two weeks prior to the observance date, be continued.

We also recommend that in approximately 3 years, the Faculty Senate, with the APC, conduct a review of this policy and, in that review, include a consideration of the effectiveness of these deadlines.

Charge Question 4. Whether the Faculty Welfare Committee or other entity should be added under Responsible Departments if faculty grievances that are not related to discriminatory practice should come to them.

Response/Recommendation:

We have recommended that when faculty are not satisfied with accommodations provided to them they follow the grievance policy already established in the Faculty Handbook. That policy indicates

In all matters involving denials of tenure and any complaints that a faculty member's academic freedom has been directly restricted, including disputes with other faculty or administrators over grades or grading policies, the grievance shall be referred to the Academic Freedom and Tenure Committee. In matters related to other academic policy concerns, the grievance shall be referred to the Academic Policies Committee. In all other matters, the grievance shall be referred to the Faculty Welfare Committee.

Hence a grievance from a faculty member regarding religious observance may be referred to the Faculty Welfare Committee.

We have recommended that when students are not satisfied with the accommodations provided to them that they follow the existing student grievance policy. That policy indicates that if the response of the Dean is not satisfactory, the student may appeal to the Academic Policies Committee (APC).

We have recommended that when staff are not satisfied with the accommodations provided to them that they follow the existing grievance policy in the Staff Handbook. This policy indicates that if the response at the supervisor level is not satisfactory, the grievance may be referred to Office of Human Resources, the President, and/or the Office of Administrative Hearings.

Hence, both the Faculty Welfare Committee (FWC) and the Academic Policies Committees (APC) may review grievances involving this policy. As such, we believe the Faculty Welfare Committee should consider this policy before it is finalized. If the Faculty Senate did not task the FWC with review of Section IIIA of this policy, then we suggest that the FS could consider inviting the FWC to review the temporary policy and the APC recommendations and have a member present to provide feedback on this section when the FS reviews the recommendations for this policy.

Based upon the similarities in their roles for this policy, if, in the policy, the FWC was added to the list of Responsible Departments, then the APC should be as well. In terms of development of the policy, since the Faculty Senate is ultimately responsible, the FWC and APC do not need to be identified. If the recommendation for the use of existing grievance procedures is accepted, multiple parties will be involved in those processes. If the FWC was listed as a responsible party because of its role in grievance procedures, then it seems many parties should be listed. We would not recommend identifying all of these parties as responsible parties in this policy.

Final Charge Statement: If the committee finds other issues in the temporary Religious Accommodations Policy that need to be addressed they may add these recommendations to their report and include a written justification for each. The committee will report its recommendations by the last Faculty Senate meeting of the Fall 2023 semester (December 12). The report is due to the Faculty Senate President by 12/5/2023.

Additional Issues to be addressed. Recommendations and justifications for these recommendations included.

In review of the temporary policy, state law, and BOR policy, the APC determined that a variety of issues needed to be addressed to make the policy more correct or more clear. Thus, the APC has a variety of recommendations in addition to the recommendations addressed above. Those recommendations are identified below. In order to address these recommendations, the APC has altered the temporary policy and thus created a draft revised policy for the Faculty Senate's consideration. That draft revised policy and the current temporary policy are included with this response, as well as the state law and current BOR policy.

1. The list in the first sentence of the temporary policy seems to benefit with an and.
Recommendation: Add "and" between services and employment.
2. The second sentence indicates that there should be no penalties for observance of religious holidays. The state law and BOR policy refer to observances beyond holidays, including organized religious activities.

Recommendation: Change the sentence to indicate there should be no penalties for religious observance in general as long as reasonable accommodations are possible.

3. There are many religions and religious holidays. A common question may be, “How might I be aware of all religious observances?” While it is impossible to have a list of all religious observances, a readily available list of many of the holidays for a variety of religions may be helpful. Beginning with lists available at other colleges and universities the SU Registrar has created a list of these holidays along with a description. This list should be available via the SU website and linked to the policy on the website. That list for the 2023-2024 academic year is attached as an example.

Recommendation: A list of typical religious holidays should be created and maintained by the Registrar. This list should be available as a calendar on the SU website and its existence and locations should be identified in Section I of the policy.

4. In the first sentence of Section II, the statement about filing grievances seems abrupt and a bit negative. The introduction of the policy should be more positive.

Recommendation: Alter the wording of the first sentence in Section II to include the purpose of the policy and to identify how to file a grievance but make the wording more positive.

5. Section IIIA of the temporary policy indicates that for all employees (faculty and staff alike) that the Office of Human Resources (HR) will be responsible for and work with employees to determine reasonable accommodations. It seems to be typical practice that when faculty wish to take time off, they make arrangements with their department chair or program manager, not HR. Depending on the timing, faculty may be able to use collegial coverage or complete noninstructional duties at a different time. Email discussion with a dean and some HR personnel indicates that there are no expectations for these accommodations to be determined differently than other time off for faculty. If leave is to be used, that is processed through HR via timesheets, but otherwise, HR should not need to be involved in the accommodation determination.

Recommendation: Alter the wording in Section III to make it clear that faculty will determine reasonable accommodations with their department chair or program manager.

6. The APC noted that the policies of other institutions made it clear that when taking time off, employees would need to use appropriate leave. It seems prudent for SU’s policy to also clarify that employees will need to use appropriate leave for religious accommodations.

Recommendation: Add language in Section III to make it clear that when appropriate, faculty will need to use leave for religious accommodations.

7. Because Section III of the temporary policy uses the same language for all employees, changes recommended by the APC for faculty would result in the need for some wording changes to parts of the policy that address staff. Given that faculty and staff have some different possibilities regarding leave and different handbooks that discuss those policies, as well as different grievance procedures, it seems most appropriate to address faculty and staff separately in Section IIIA. We do not believe it is in the APC’s purview to make policy regarding religious accommodations for staff. However, we suggest that when possible, the policy be parallel for faculty and staff. Hence, with limited knowledge, as we made revisions to the policy for faculty, we attempted to begin a structure with parallel processes for staff. Such policy changes related to staff cannot be decided by the APC and the Faculty Senate. The Staff Senate should be consulted regarding changes to the policy impacting staff.

The suggested changes impacting staff include

- a. It may be reasonable to indicate that for both faculty and staff, accommodations will be determined with their immediate supervisors and if leave is to be used, that is processed through HR. Reading through available policies and with a wee bit of discussion with some members of the Staff Senate, the APC has ascertained that staff members most likely would also request and make arrangements for time off with their immediate supervisors.
- b. It seems that when taking time off, staff also may need to use appropriate leave, although the types of leave available for staff may be different than for faculty.
- c. Notice of more than two weeks, when possible, may be beneficial for planning for employees working with staff. While no official communication occurred between the Staff Senate and the APC, the APC did reach out to some staff members and did receive a suggestion that accommodations for holidays be requested a semester in advance.
- d. A grievance procedure for staff exists in the Staff Handbook. That procedure might be a reasonable process for a grievance related to religious observance.

Recommendation: Section IIIA should be altered to address faculty and staff separately and appropriately with parallel structure when possible. The Faculty Senate should verify this recommendation and eventual wording of the policy with the Staff Senate. We suggest the Faculty Senate consider inviting the Staff Senate to review this section and have a member present to provide feedback on this section when the Faculty Senate reviews the recommendations for this policy.

8. Given that SU has an emergency absence policy, it would be best for all parties if similar concerns and wording could be used in this policy.

Recommendation: Reword Section IIIB to, when possible, parallel the emergency absence policy, and to clarify that accommodations may include extended deadlines, making up missed assignments, completing alternate assignments, dropping assignments, or other reasonable accommodations established by the instructor.

9. It should be clear to students that while reasonable accommodations should be made, students are still responsible for work missed and material covered.

Recommendation: Add language to Section IIIB of the temporary policy to make students aware that they will be responsible for material covered and assessments completed.

10. So that students are not surprised at the end of a semester, it should be clear to students that missing classes or completing work in an alternate fashion may not provide the same experience as attending class, and thus may impact student success in a course. In some courses, missing more than a week's worth of classes (or even fewer classes during shorter terms) may hinder the feasibility of successful completion of the course.

Recommendation: Add language to Section IIIB of the temporary policy to make students aware that missing classes may indirectly impact student success.

11. If possible, this policy should make it clear how it is determined what religious observances must be accommodated and whether faculty may request verification. The newly revised (15 December 2023) BOR policy III-5.10 indicates

An accommodation requested under this policy shall be considered reasonable if it is required for the student to practice a sincerely held faith-based or religious belief and it does not impose an undue hardship upon the Institution or fundamentally alter the essential nature of the course or program.

However, our SU attorney and our Title IX office have indicated that faculty may not request documentation to verify the need for the accommodation, nor should they ask for identification of the religion involved or the actual religious observance. Faculty need to be aware of this, but it does not seem appropriate to include it as an item in the policy.

Recommendation: Faculty Senate determine how to educate faculty regarding these expectations.

12. It should be clear to students and to faculty how religious observances and a set number of absences or dropped assignments may be addressed. As the newly revised (15 December 2023) BOR policy III-5.10 and the SU Emergency Absence Policy identify, the number of absences for religious observances should be counted toward the maximum number allowed. Hence it should be clear to students that if 5 absences are allowed by course policy and the student has 4 absences for religious observance and also had 1 absence due to oversleeping and 1 absence due to a nonfunctioning car, the student may receive penalties for 1 absence.

However, the BOR policy also indicates that unless there are program specific attendance policies, there should be a consideration of whether extending the number of absences or missed assignments with no penalty would be a reasonable accommodation.

Recommendation: Add language to Section IIIB of the temporary policy to clarify how religious observance impacts the number of allowed absences or missed assignments.

13. SU has a culture of typically expecting Faculty to make accommodations for students of no more than a week. Faculty will need to understand the expectations of the state law and the BOR policy for religious accommodations.

Recommendation: Faculty Senate determine how to educate faculty about the expectations.

14. As the APC discussed this temporary policy, having subsections of A, B, C with subsections under those of a, b, c caused confusion.

Recommendation: Change the subsections under A, B, C to be numbers or to lower case Roman Numerals as in the Emergency Absence Policy.

Attachments:

1. Revised Religious Accommodation Policy as suggested by the APC.
2. Temporary Religious Accommodation Policy 08/25/23
3. State law regarding religious accommodations in public institutions of higher education
4. BOR Policy regarding religious accommodations
5. Example Religious Observance Calendar