


Name: 
Hillsborough NC 27278

Address: _____

Date: _____

N.C. Rules Review Commission
6714 Mail Service Center
Raleigh, NC 27699-6700
Fax: 919-431-3104
Email: oah.rules@oah.nc.gov

Re: 16 NCAC 06D .0309 REQUIREMENTS REGARDING END-OF-COURSE
ASSESSMENTS

Members of the Commission:

I request that the above rule(s) be reviewed in the upcoming legislative session as set out in N.C.G.S. 150B-21.3. I further request that the rule(s) be subject to a delayed effective date as set out in that same provision.

Thank you for your consideration.

Name:  _____

Signature:  _____

I am at high risk if infected with COVID. His grandparents are at high risk as well. Putting him (and any student) in a situation where they have to take in person tests when NC is hitting daily records of infections and deaths is unconscionable, unsafe, against the Governor's recommendations and truly dangerous. This is an avoidable problem and I hope you will take steps to keep this from happening!

Burgos, Alexander N

Subject: FW: [External] 16 NCAC 06D .0309 Requirements Regarding End-of-Course Assessments

From: Nathalie Morse <nmorse101@icloud.com>

Sent: Wednesday, December 9, 2020 1:53 PM

To: Rules, Oah <oah.rules@oah.nc.gov>

Subject: [External] 16 NCAC 06D .0309 Requirements Regarding End-of-Course Assessments

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N.C. Rules Review Commission
6714 Mail Service Center
Raleigh, NC 27699-6700

Members of the Commission

I request that the 16 NCAC 06D .0309 Requirements Regarding End-of-Course Assessments rule(s) be reviewed in the upcoming legislative session as set out in N.C.G.S. 150B-21.3.

There doesn't seem to be a provision that in years where there is a pandemic or natural disaster still causing problems for the whole state, etc that the state can issue an exemption for EOG/EOC/CTE testing.

It also doesn't directly address when a student retakes a course (g). It is however implied in (c).

I further request that the rule(s) be subject to a delayed effective date as set out in that same provision.

Thank you for your consideration
Nathalie Morse

Burgos, Alexander N

Subject: FW: [External] EVIDENCE of the UNLAWFUL 16 NCAC 06D .0309 REQUIREMENTS REGARDING END-OF-COURSE ASSESSMENTS

From: Christina Virgil <christinavirgil@icloud.com>

Sent: Tuesday, December 15, 2020 12:53 PM

To: Rules, Oah <oah.rules@oah.nc.gov>

Subject: [External] EVIDENCE of the UNLAWFUL 16 NCAC 06D .0309 REQUIREMENTS REGARDING END-OF-COURSE ASSESSMENTS

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Per the policy

<https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=TEST-003&Sch=10399&S=10399&C=TEST&RevNo=1.54&T=A&Z=P&St=ADOPTED&PG=6&SN=true>

1. Students are *NOT REQUIRED* to attend, participate, or have the assessment account for 20% of their grade.

The Supreme Court ruled that the use of the word “shall” is NOT synonymous with “must” and falls under a false imperative.

Subsequently, new laws guidelines and handbooks were written, outlying the removal of “shall” from all federal & state legal documents, as it does not define obligation or requirement.

<https://www.plainlanguage.gov/guidelines/>

https://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/13496

<https://www.govinfo.gov/app/details/https%3A%2F%2Fwww.govinfo.gov%2Fapp%2Fdetails%2FPLAW-111publ274>

•Supreme Court Ruling of Gutierrez de Martinez v. Lamagno, 515 U.S. 417 (1995)

Additionally, Per the “Test Coordinators’ Policies and Procedures Handbook NCDPI Division of Accountability Services Published August 2020 North Carolina Testing Program” on page 58 under the “Invalid Test Scores” subheading,

“In the event that procedures specified in the test administration guides or in state accommodations publications (or in subsequent updates to these documents) are not followed during the actual test administration, the NCDPI Division of Accountability Services may declare the test scores invalid. If test scores are invalid, the results must not be included in a student’s permanent record or be used for accountability purposes. Invalid test scores will not be used in the accountability model.”

In this instance, during a pandemic illness which may result in severe respiratory syndrome and death by which is transmitted through respiratory droplets, the recognition of of other students breathing may pose a significant distraction. A distracting behavior is specifically mentioned as one of the test administration guidelines.

Additionally, an exception to these guidelines includes students who are enrolled in a course during the initial implementation year of the new assessment for that course. Per Merriam-Webster dictionary, the definition of an assessment is

“the action or an instance of making a judgment about something : the act of assessing something : APPRAISAL”.

This school year which has had significant modifications including transitions to new online formats. Therefore the assessment would be a evaluating the efficacy of new education models, practices, and formats. While the test may be the same, the criteria included for the formation of that test in regard to the standards of expectations of the years without unprecedented challenges, is wholly different. Therefore this will be an entirely different assessment.

By these arguments, it would be unlawful to require students to participate, have their scores included as a 20% metric for their final grade, or be included in their permanent record.

Thank you,
Christina Virgil