

# Employee Guidelines to Accommodate Leave for Religious Observance

## Overview

The Province of Nova Scotia is committed to maintaining a workplace environment that is inclusive and free of discrimination, while valuing diversity and respecting the inherent dignity and worth of every employee. In this diverse and equitable workplace, all employees will have the opportunity to contribute fully to the Province of Nova Scotia's mission, vision, and values, and each employee's contributions will be respected.

The Province of Nova Scotia acknowledges that an employee's religious beliefs may require time away from work on days of religious observance and/or time for prayer during scheduled working hours. These Guidelines outline the process for the reasonable accommodation of leave required by an employee for religious observance in accordance with the Nova Scotia *Human Rights Act*.

## Definitions

### Diversity

Recognition of each of our characteristics and what makes us distinct from each other, including but not limited to age, language, culture, race, ethnicity, sexual orientation, gender, gender identity and expression, dis/abilities, and religious or spiritual beliefs.

### Human Resource Professional

An employee who is accountable for the provision of consultation, advice, guidance, and direction on human resources matters, and/or for the delivery of human resource programs and services to the management and staff of the Province of Nova Scotia, and includes a Human Resource Director, Manager, or Consultant.

### Reasonable Accommodation

For the purpose of these guidelines a reasonable accommodation is any change to a job, an employee's work environment or the conditions usually present in the workplace which allows an employee to exercise their right to practice their religious belief and which does not create undue hardship for the employer.

### Undue Hardship

Occurs when all reasonable means of accommodation have been exhausted and only unreasonable or impracticable options remain which would create a substantial and unmanageable workplace burden for the Province of Nova Scotia and/or it is determined that the employee's safety would be impacted resulting in an unsuccessful return into the workplace. Such a burden may include significant, financial, operational and/or safety considerations. If challenged by a grievance or human rights complaint, the Employer has the burden of proving that an accommodation would result in undue hardship.

## Objectives

These Guidelines seek to:

- Establish the procedure and information required for requesting accommodation in the form of leave for religious observance and/or time for prayer during regularly scheduled work hours;
- Provide non-comprehensive examples of how an employee's request for religious accommodation can be met, while recognizing that the unique nature of each individual work environment may require flexible and tailored solutions free of stigma; and
- Emphasize that the duty to accommodate is a collaborative process that requires participation from all involved parties.

## Application

These Guidelines apply to all civil servants whose terms and conditions are set out in accordance with the *Civil Service Act* and Regulations and applicable collective agreements, and other direct employees of the Government of Nova Scotia.

## Shared Responsibility

The duty to accommodate is shared between the Province of Nova Scotia, employees requesting accommodation, management personnel, and union representatives where applicable. All parties may consult a Human Resource Professional regarding the reasonable accommodation of time required for religious observance.

## Accommodation

An employee who requires time away from work for religious observance must make a request for accommodation to their designated supervisor and/or manager. Such a request must:

- Identify the religious observance for which the accommodation is requested; and
- Identify the nature of the accommodation required.

Supervisors and/or managers may require additional information about any religious requirements that necessitate accommodation in the workplace. However, a manager cannot ask the employee to disclose which religious group they belong to or for 'proof' of affiliation. A supervisor and/or manager must consult with a Human Resource Professional before seeking additional information.

When time away from work is required for a religious observance, the employee must make the request as soon as the specific date(s) is known. After receiving an accommodation request, the supervisor and/or manager will consider the request for accommodation, which will be determined on a case-by-case basis.

A decision to approve time away from work can be made by the supervisor and/or manager. A determination that accommodation cannot be provided is to be based on undue hardship and can only be made by a Deputy Head, or designate, in consultation with a Human Resource Professional.

Reasonable accommodation of time required for religious observance may include, but is not limited to, the following options:

- a) Scheduling changes (e.g. shift changes, alternate arrival and departure times on days when the employee cannot work for the entire period, use of lunch times in exchange for early departure or staggered work hours);
- b) Use of compensatory time, such as Earned Days Off (EDOs), vacation time, banked overtime, where applicable;
- c) Use of flexible work arrangements, where applicable; and
- d) Special leave.

**Please note:**

- Occasionally requests for accommodation for religious observance may come in other forms than time off and/or leave, such as a workplace providing a prayer / quiet room / or space for employees to access in the workplace for spiritual / religious practices.

## Monitoring

The Public Service Commission is responsible for monitoring the effectiveness and consistent application of these Guidelines. The Public Service Commission may periodically conduct reviews or evaluations of practices and require access to data maintained with respect to these Guidelines.

## References

- Canadian Charter of Rights and Freedoms
- Nova Scotia *Civil Service Act* and Regulations
- Nova Scotia *Human Rights Act*
- Government of Nova Scotia Employee Equity Policy
- Government of Nova Scotia Respectful Workplace Policy
- Values, Ethics, and Conduct: A Code for Nova Scotia's Public Servants