

Subject: Accommodating Leaves for Religious Observances
Date: April 2015
From: Employee/Labour Relations, Human Resources Services
To: Supervisors of Employees who are in the Unifor Local 5555 Unit 1 bargaining unit

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Should there be any discrepancy between this document and the Unifor Local 5555 Unit 1 Collective Agreement, the Collective Agreement shall prevail.
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Q1: If an employee requests time off from work to participate in a religious holiday, which is not included in the list of statutory holidays provided by the University, must I grant the request?

Yes, you are required to provide employees who are members of a minority religious faith the opportunity to take time off without loss of pay to celebrate their religious holidays.

The University acknowledges an individual employee's right to follow or not to follow religious beliefs and practices, free from discrimination or harassment and is committed to taking all reasonable steps to provide religious accommodations to faculty and staff.

Q2: The employee has not yet completed their probationary period, are they entitled to time off?

Yes, the University's obligation to accommodate based on creed (which is a protected ground under the Ontario *Human Rights Code*) extends to all employees, regardless of their length of service with the University.

Q3: An employee has made a last minute request to take a day off to participate in a religious holiday. Must I grant this short notice request?

Yes, despite the short notice, you are required to provide the employee time off. However, it is expected that employees will provide reasonable notice of the request for leave. Employees should be reminded of this expectation for any future requests that they bring forward.

Q4: What obligations does the employee have when making requests for leave?

Employees have an obligation to provide as much notice as possible of requests for time off. It is expected that employees will know far enough in advance when their religious holidays are celebrated each year. In addition employees have an obligation to participate in the accommodation process by assisting their supervisor in fashioning a suitable accommodation, for example, making a plan as to how required work tasks will get completed.

Q5: Must the employee complete a form or other document when making their request for time off?

There is no set form or document that must be completed. It is, however, recommended that employees make requests for time off in writing, for example, by email.

Q6: Must the employee be paid for the day off?

Employees must be provided time off work without loss of pay or benefits. This means that if the employee would have otherwise been paid for the day, i.e. it's a regularly scheduled work day, then they should not have their pay reduced or benefits suspended for participating in their religious holidays. While there is no express entitlement to provide paid leave, you must consider various forms of accommodation to allow employees to have time off without loss of pay, for example, CTO, flexible work arrangements, etc. Refer to article 15 of the Unifor Unit 1 collective agreement.

Q7: What forms of accommodation could I offer when responding to employee requests?

The accommodation process requires that an individualized approach be taken with each employee request. The duty to accommodate is an obligation that arises when requirements, factors, or qualifications, which are imposed in good faith, have an adverse impact on, or provide an unfair preference for, a group of persons based on a protected ground under the *Human Rights Code*. The duty to accommodate must be provided to the point of undue hardship.

Most commonly made employee requests for religious accommodation are leaves of absence to participate in religious holidays.

Accommodations which allow for time off without loss of pay could include:

- use of compressed work weeks, and
- schedule changes so the employee can make up the time taken at a later date.

Compressed work weeks allow for employees to complete their standard work week hours in a shorter number of days. For example, an employee who works a 35-hour standard work week, comprised of 5 shifts each 7 hours in duration and who makes a request for 1 shift off may be permitted to complete their 35-hours over the course of 4 shifts each of 8.75 hours in duration. This compressed work week accommodation allows the employee to take off 1 shift for religious observance without loss of pay.

Schedule changes can include a wide variety of options. For example, an employee who takes 1 day off to celebrate a religious holiday may be able to make up the missed shift incrementally over the course of 2 weeks.

It is recommended that whatever accommodation is granted and agreed upon that it is then confirmed in writing in accordance with compensating time off, flexible work arrangements, etc. as set out by article 15 of the Unifor Unit 1 collective agreement.

Q8: What factors must I consider when setting accommodations for religious leave requests?

The following factors are not exclusive, but may be used to inform your discussion with the employee:

- The operational requirements of the department (staffing needs, ability to re-assign work),
- The requested duration of time off,
- The nature of the work performed by the employee, and
- The operation of the work unit (refer to Q11 below).

Q9: What if there is no opportunity to offer an alternative arrangement?

If no alternative arrangement can be made available and no other option exists, there may be an obligation to provide up to 2 days without loss of pay. The collective agreement currently provides 2 non-secular holidays, Christmas and Good Friday. In these cases, please consult with Employee/Labour Relations.

Q10: What is the maximum duration that an employee can take off work for religious leave without loss of pay?

As noted in Q9 above, providing up to 2 paid leave days would not likely constitute an undue hardship for the University. However, in such cases any leave of absence over and above 2 days in a year (the Collective Agreement provides 2 non-secular holidays) should be without pay.

Q11: One of my employees has asked to take off Orthodox Christmas which occurs on January 7th. Can I ask the employee to work on December 25th, (a statutory holiday in which the University is closed) in order to make up the time?

The University does not operate on December 25th, therefore in almost all cases the answer is no. This will only be permitted if the employee is normally scheduled to work on December 25th, because they are part of a work unit that operates even when the University is closed; for example, employees in Central Animal Facilities, or Utilities Services. If not, then the supervisor will not be permitted to require an employee to work on December 25th or any other statutory holiday in which the University is closed.

Q12: Upon receiving a request for leave for religious observances, am I entitled to request documentation from an employee in order to prove that they are adherents to a religious faith, and/or that is in fact a holiday of the religion that they practice?

Yes. The employee's request for accommodation should be in writing. It may be necessary for you to request additional documentation to support or better understand the request. Please contact Employee/Labour Relations in this circumstance before proceeding.