

# Personal Observance Leave (Opt-In) Policy

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## § 1. Introduction

Executive Order No. 262 (the “Executive Order”) provides up to eight hours of fully paid leave to eligible employees for a day of personal observance to utilize on a day of significance, including days of cultural, religious, or personal observation. The Executive Order applies to Cabinet Agencies and any other state agencies that voluntarily adopt the Executive Order’s measures.

The State of North Carolina supports a work environment that fosters respect and values all people regardless of their race, color, religion, sex (including pregnancy), national origin, age, genetic information, disability, sexual orientation, gender identity and expression, or veteran or National Guard status. The Office of State Human Resources (“OSHR”) seeks opportunities to promote diversity and inclusion at all occupational levels of State government’s workforce through Equal Employment Opportunity (“EEO”) initiatives.

The State of North Carolina strives to be an employer of choice, including recruiting and retaining a diverse workforce and creating an inclusive environment. The State employs a robust and diverse workforce, reflecting the multiple cultural and religious communities of our State. Because of the diversity of State employees, there are many different days of cultural or religious significance in our workforce. Moreover, some employees may have days of personal significance that are their own, outside of any cultural or religious tradition. The Participating Agencies that have joined this Policy seek to ensure that employees have an opportunity to observe these days of personal, cultural, or religious importance.

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As authorized by Section 1 of the Executive Order, this Policy establishes further details to implement the Personal Observance Leave provided under the Executive Order. This Policy may be amended in the future.

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### § 2. Definitions

Cabinet Agencies — Those agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet.

Executive Order — Executive Order No. 262.

Participating Agency — A state agency, commission, board, or office which provides paid leave under this Policy for eligible employees. Participating Agencies include all Cabinet Agencies. Participating Agencies also include any other state agencies that voluntarily adopt this Policy.

Policy — This policy on Personal Observance Leave.

Personal Observance Leave — Leave provided under the terms of this Policy.

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### § 3. Eligible Types of Employees

Personal Observance Leave is available only to employees of a Participating Agency who are permanent, probationary, or time-limited. Temporary employees, interns, and contractors are not eligible for Personal Observance Leave.

To be eligible for Personal Observance Leave, employees must be either (a) full-time or (b) part-time with a schedule that is at least half-time. Part-time employees are not eligible for Personal Observance Leave if they work less than half-time.

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### § 4. Amount of Leave

Full-time employees will receive eight hours of Personal Observance Leave each calendar year. Part-time employees will receive a prorated amount based on their number of hours compared to a full-time schedule.

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### § 5. Use of Leave

#### *When the Leave Can Be Used*

Personal Observance Leave may be used for any single day of personal significance. This includes, but is not limited to, days of cultural or religious importance. The day used for Personal Observance Leave does not have to be a day from the employee's own religious

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or cultural background.

The total amount of Personal Observance Leave awarded to an employee must be utilized in one work shift. Employees may use Personal Observance Leave prior to exhausting any accumulated compensatory time (comp time).

Employees may use their allotment of Personal Observance Leave beginning June 16, 2022, or on an earlier date announced by OSHR if the Personal Observance Leave can be coded and made available sooner.

### *Arranging to Take the Day of Leave*

Employees should request Personal Observance Leave at least two weeks before the leave is needed unless such notice is impractical. Regardless of the employee's religious or cultural background, any day that the employee identifies as significant for cultural, religious, or personal reasons qualifies under this Executive Order and the Policy. Agencies must not question whether an employee's identification of a particular day for Personal Observance Leave is sincere and legitimate.

Agencies should, to the greatest extent possible, allow employees to use the leave at the time requested. However, the supervisor or other manager may require that the Personal Observance Leave be taken at a time other than the one requested, based on the needs of the agency.

Supervisors are encouraged to accommodate employees who may want to recognize the same day for Personal Observance Leave. However, when necessary to avoid impact to agency services, supervisors may ask employees to take their leave on different days.

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### § 6. **How Personal Observance Leave is Credited during Hire and Transfer**

Employees who join the Participating Agency during the calendar year will be eligible for the full amount of Personal Observance Leave provided under this Policy to be used in that calendar year. The following business processes apply for existing employees, new hires, and reinstatements:

- At the time this Policy goes into effect, eligible employees at Participating Agencies will be credited with leave.
- Newly hired employees shall be credited with leave immediately upon their employment with a Participating Agency.

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- Separated employees that are re-employed within the same calendar year with a Participating Agency will receive the same amount of leave as a newly hired employee unless they previously utilized the leave within the same calendar year.

For transfers between Participating Agencies and non-participating agencies, the following business processes apply:

- If an employee moves from one Participating Agency to another Participating Agency within the calendar year, unused Personal Observance Leave will transfer to the employee's new agency.
- If an employee moves from a Participating Agency to a non-participating agency, unused Personal Observance leave will not transfer to the non-participating agency.
- If an employee moves from a non-participating agency to a Participating Agency, the employee will receive leave as a newly hired employee, as indicated in above.

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### § 7. Other Limitations

- Personal Observance Leave not taken by the end of the calendar year is forfeited; it shall not be carried into the next calendar year.
- Personal Observance Leave has no cash value and cannot be converted into retirement credit. Employees shall not be paid for unused Personal Observance Leave at separation. This leave shall not be payable upon death of an employee during state service.
- Personal Observance Leave shall not be applied to existing negative leave balances. This leave shall not be donated under the Voluntary Shared Leave policy.
- This leave may not be used for the same purposes as sick leave.

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### § 8. The Agencies Where This Policy Applies

This Policy automatically applies to Cabinet Agencies. It also applies to state agencies, commissions, boards, or offices that choose to adopt this Policy (either in whole or with any modifications). Non-Cabinet agencies may adopt this Policy and become a Participating Agency by sending a letter or email to OSHR's Chief Deputy Director, Glenda Farrell. The request should include the phrase "Personal Observance Leave Policy" in the subject line.

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### § 9. Effective Date and Modification

This Policy becomes effective on the date when it is issued. It may be modified or rescinded by the Director of State Human Resources (for Cabinet Agencies) or agency head (for non-Cabinet Participating Agencies) for any reason.

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### § 10. Miscellaneous Terms

#### *No Private Right of Action*

This Policy is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

#### *Savings Clause*

If any provision of this Policy or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Policy which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Policy are declared to be severable.

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### § 11. Sources of Authority

This Policy was previously adopted by many state agencies under N.C.G.S. § 143B-10(j)(3), Article III of the Constitution of North Carolina, N.C.G.S. §§ 143A-4, 143B-4, 147-12, and 25 N.C. Admin. Code 01E .0101 and 01L .0101.

The State Human Resources Commission adopts this policy under N.C.G.S. § 126-4(5), which authorizes the Commission, subject to the approval of the Governor, to establish policies and rules governing hours and days of work, vacation, and other matters pertaining to the conditions of employment.

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### § 12. History of This Policy

Date	Version
June 6, 2022	Initially adopted by state agencies as an agency policy under N.C.G.S. § 143B-10(j)(3) and other statutes. First version of policy.

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July 14, 2022	Adopted as a State Human Resources Commission policy. No changes to text, except for an explanatory note at the beginning and revised “sources of authority” and “policy history” sections at the end.
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