



State of Ohio Administrative Policy

Adoption/Childbirth Leave

No: HR-18

State Human Resources Division

Effective:

October 4, 2023

Issued By:

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I. Purpose

Adoption/Childbirth leave is intended to provide an opportunity for eligible State employees to take up to a maximum of twelve (12) consecutive weeks of continuous leave to provide parental care within one (1) year of the **Birth** or **Adoption** of a **Child**(ren). The first occurrence of a defined term in the policy is in bold, italic type, and is linked to the definition in Section IV.

II. Scope

All State of Ohio agencies, boards, and commissions under the authority of the Governor are subject to this Policy (collectively referred to as Agency or Agencies).

III. Policy

All permanent exempt employees, and permanent bargaining unit employees pursuant to applicable collective bargaining agreements, who work an average of thirty or more hours per week are eligible for Adoption/Childbirth leave. For bargaining unit employees, consult applicable collective bargaining agreements for any differences from this policy.

A. Effective Date and Triggering Event

1. Eligibility for taking Adoption/Childbirth leave shall begin on the date of the Birth of an employee's Child(ren) or on the day on which custody is taken by the employee for Adoption placement. In the case of a Birth, the employee must be the parent (as listed on the birth certificate, or in the case of a stillbirth, the death certificate). In the case of an Adoption, the employee must be the **Legal Guardian** of, and reside in the same household with, the newly adopted Child to be eligible. If an employee Adopts multiple Children within twelve (12) weeks of each other or in the event of the Birth of multiple Children (e.g., twins or triplets), the event shall be considered a single qualifying event, and will not serve to increase the length of leave for the employee or the amount of Adoption expenses received in lieu of receiving paid leave.

2. The average regular hours worked (including holidays and use of paid leave) over the preceding three-month period shall be used to determine eligibility and benefits under this section for part-time employees, provided that such benefits shall not exceed forty (40) hours per week. If the employee has not worked a three-month period, the average number of hours for which the employee has been scheduled per week since the day of hire will be used to determine eligibility and benefits.
3. This policy applies only to Births and Adoptions occurring on or after July 1, 2023. Any event occurring before that date is eligible for the benefit that was in effect at the time of the Birth or Adoption.

B. Request for Leave

1. Employees who are eligible should request Adoption/Childbirth leave in writing within two (2) working days following the Birth or Adoption of the Child if the employee is seeking to use the leave immediately following the Birth or Adoption.
2. In the event the employee requests to use such leave at a later date, within one year of becoming eligible, the employee should provide at least two weeks' notice to the Agency of the timeframe for using the leave.
3. Such request for leave in either instance should be made in accordance with Agency policy and procedures.

C. Leave and Benefit Amount

1. Eligible State employees are entitled to a maximum of twelve (12) consecutive weeks of continuous leave within one (1) year of Birth or Adoption. The twelve (12) weeks of leave shall be paid at 70% of the employee's regular rate of pay. Payment shall be made through the regular payroll process. Employees may supplement the 70% wages as described below:
 - a) Employees may use sick leave, vacation leave, personal leave, and/or compensatory time to supplement the 70% wages for the twelve (12) weeks or any portion thereof. Employees may supplement their wages up to a combined total of 100% of their regular bi-weekly rate of pay, as explained in more detail in sub-section c below.
 - b) Agencies may allow employees to work a reduced schedule during any portion of the twelve-week period, subject to the needs of the Agency. Employees who are permitted to work a reduced schedule during such period shall establish a schedule that is acceptable to the Agency.
 - c) Employees who choose to work or supplement their pay with accrued leave during the twelve (12) weeks of leave, as described above, shall have their pay for the hours worked or supplemented with leave calculated so that working or supplementing thirty percent (30%) of their normally scheduled work hours during the pay period shall result in a bi-weekly amount equal to a combined total of 100% of their regular bi-weekly pay. Employees who work more than thirty percent (30%) of their

regularly scheduled hours shall forfeit paid Adoption/Childbirth leave on an hour for hour basis for all excess hours.

2. An employee who is Adopting a Child(ren) may elect to take five thousand (\$5,000) for Adoption expenses in lieu of the leave benefit. Payment may be requested as soon as the court has awarded permanent custody of the Child(ren) to the employee.
- D. **Other Leaves and Benefits:** For the duration of the Adoption/Childbirth leave period, employees are eligible to receive all employer-paid benefits and accrue all forms of leave they are eligible for at the employee's regular accrual rates as if they were in active pay status and regardless of whether they are receiving payment at 70% or supplementing to 100% of their regular rate of pay.
- E. **Insurance Coverage:** Agencies are required to continue paying the employer's portion of the employee's health insurance premiums during an approved Adoption/Childbirth leave, and the employee's health insurance premium will continue to be deducted.
- F. **Holidays**
1. Employees shall not be eligible to receive Holiday Pay while on Adoption/Childbirth leave. Holidays shall be counted as one day of Adoption/Childbirth leave and shall be paid as Adoption/Childbirth leave, not Holiday Pay.
 2. Employees who work during a holiday shall be entitled to pay as provided pursuant to the appropriate collective bargaining agreement, law, or Administrative Rule.
- G. **Overtime:** No portion of Adoption/Childbirth leave is to be included in calculating hours worked for the purposes of overtime.
- H. **Interaction with the Family Medical Leave Act:** Employees using Adoption/Childbirth leave who meet the eligibility requirements of the Family Medical Leave Act (FMLA), pursuant to 29 CFR 825.110, shall have the entire non-working period of Adoption/Childbirth leave counted toward the employee's twelve workweek FMLA entitlement. In accordance with the State's FMLA policy, when FMLA leave is used concurrently with Adoption/Childbirth leave, the leave policy for Adoption/Childbirth leave shall override the FMLA requirement that employees exhaust all accrued leave prior to going on unpaid leave. An employee may not use the Adoption/Childbirth leave under this section after exhausting the FMLA entitlement for the birth or adoption. Please see Section VI, below, for the State's FMLA Policy.
- I. **Coordination with Disability Leave:** Employees who are receiving disability leave benefits prior to becoming eligible for Adoption/Childbirth leave shall continue to receive disability leave benefits for the duration of the disabling condition. If the employee continues to qualify for Adoption/Childbirth leave following release from disability, the employee may use the leave in accordance with this policy.

- J. **Coordination with Bereavement Leave:** In the event an employee takes leave under this policy for a Stillbirth, the employee is ineligible for bereavement leave as allowed under section 124.387 of the Ohio Revised Code and/or any applicable collective bargaining agreement.
- K. **Leave Duration:** Under no circumstances shall Adoption/Childbirth leave be taken beyond one (1) year from the date of Birth or Adoption. Adoption/Childbirth leave shall not be used to extend the layoff date of employees or to extend a period of employment for established term employees if eligibility is provided to the non-permanent employee pursuant to a collective bargaining agreement.

IV. Definitions

- A. Adoption. The process outlined in chapter 3107 of the Revised Code (or as amended) for adoption of a Child.
- B. Birth. As defined in section 3705.01 of the Revised Code (or as amended). Birth includes Stillbirth, as defined in division (B)(2) of section 3705.01 of the Revised Code (or as amended).
- C. **Incapable of Self-Care.** As defined in 29 CFR 825.102 (or as amended).
- D. Legal Guardian. Means any person, association or corporation appointed by the probate court to have the care and management of the person, the estate, or both of a Child.
- E. Child. Any person under the age of eighteen years or any person who has been adjudicated by a court of competent jurisdiction as Incapable of Self-Care due to a physical or mental impairment, intellectual disability, or developmental disability.

V. Authority

ORC 124.136, 124.137
OAC 123:1-45-01
Applicable collective bargaining agreements

VI. Resources

Document Name	Location
Statewide FMLA Policy	https://das.ohio.gov/employee-relations/policies/family-medical-leave-act

VII. Inquiries

Direct inquiries about this policy to:

Labor Relations and Human Resources Policy
Office of Collective Bargaining
Ohio Department of Administrative Services
4200 Surface Road
Columbus, Ohio 43228

614.752.5393|DASHRD.HRPolicy@das.ohio.gov

State of Ohio Administrative Policies may be found online at
<https://das.ohio.gov/home/policy-finder/filter-policy-finder>

VIII. Revision History

Date	Description of Change
07/01/2010	Date of last issuance.
07/26/2023	Reissued for compliance with HB 33, 135 th General Assembly and updated to reflect current statutory requirements.
08/15/2023	Updated Section III(A) to reflect the July 1, 2023 effective date in Section 271.10 of HB 33 of the 135 th General Assembly.
10/04/2023	Updated the definition of Child and added the definition of Incapable of Self-Care. Other housekeeping changes made throughout.