

State of Ohio Policy Regarding Adoption/Childbirth Leave

Purpose

Adoption/Childbirth leave is intended to provide an opportunity for State employees to take up to a maximum of six (6) weeks of continuous leave to provide parental care immediately following the birth or adoption of a minor child.

Eligibility

All permanent exempt employees, and permanent bargaining unit employees covered by the following Collective Bargaining Agreements, who work an average of thirty or more hours per week are eligible for Adoption/ Childbirth leave.

Collective Bargaining Agreements – Ohio State Troopers Association (OSTA), Fraternal Order of Police (FOP) 2, FOP 48 (Attorney General), Ohio Civil Service Employees Association (OCSEA), OCSEA 50 (Auditor), OCSEA 55 (Treasurer of State), Service Employees International Union (SEIU) 1199, and State Council of Professional Educators, Ohio Education Association (OEA SCOPE).

Effective Date and Triggering Event

Eligibility for taking Adoption/Childbirth leave shall begin on the date of the birth of an employee's child 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 biological parent. 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, 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, so long as the children are adopted within six weeks of each other.

Employees who desire to use such leave are encouraged to apply in writing within two (2) working days following the birth or adoption of a child. Such application shall be made using the standard Request for Leave form (ADM 4258).

Leave and Benefit Amount

To qualify for Adoption/Childbirth leave, an employee must complete a 14-day waiting period, which commences on the date of the birth of an employee's child or the placement of an adopted child into the employee's custody. An employee may work at the discretion of the employee's appointing authority and/or may take unpaid leave, or may use any form of accrued paid leave or compensatory time for which the employee is qualified, or any combination thereof, during the 14-day waiting period. The 14-day waiting period under this section shall satisfy the waiting period for disability leave benefits for employees who qualify for additional leave due to disability, provided the employee does not work during the two week waiting period. The remaining four weeks of Adoption Childbirth leave shall be paid at 70% of the employee's regular rate of pay.

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 will be used to determine eligibility and benefits.

For the duration of Adoption/Childbirth leave, employees are eligible to receive all Employer-paid benefits and accrue all forms of leave at their 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. Appointing authorities are required to continue paying the employer's portion of health insurance premiums during approved Adoption/Childbirth leave.

Holidays

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 be paid as Adoption/Childbirth leave, except that during the waiting period if an employee was in active pay status the day before a holiday, the employee will be eligible to receive Holiday Pay as normal. Employees who work during a holiday shall be entitled to pay as provided pursuant to the appropriate Collective Bargaining Agreement, law or Administrative rule.

Use of Other Leave

Employees may utilize sick, vacation, personal leaves and/or compensatory time to receive pay during the 14-day waiting period and to supplement the 70% wages for the remaining four 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.

Employees using Adoption/Childbirth leave who meet the eligibility requirements of the Family and Medical Leave Act (FMLA) (i.e. twelve months of state service, and 1,250 hours in state service active work status during the twelve months immediately before the birth or adoption) shall have the entire non-working period of Adoption/Childbirth leave counted toward the employee's 12 workweek FMLA entitlement. In cases where the employee elects to use compensatory time in order to be paid during the 14-day waiting period or to supplement the 70% wages, the compensatory time used shall be counted toward the employee's 12 workweek FMLA leave entitlement pursuant to 29 CFR 825.207(f).

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 of their accrued leave prior to going on unpaid leave. Pursuant to ORC 124.136(C), the decision to use sick, vacation, personal and/or compensatory time to receive pay during the 14-day waiting period is solely at the employee's discretion, and agencies may not force an employee to exhaust such leave during this time frame prior to going on unpaid leave.

Working During Adoption/Childbirth Leave Period

Appointing authorities may allow employees to work a reduced schedule during any portion of the six 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 Appointing Authority. Only the time spent in non-work status during the period of Adoption/Childbirth leave may be applied as FMLA leave.

Credit for Hours Worked or Supplemented

Employees who work or supplement their pay during the latter four weeks of leave, as described above, shall have their pay for hours worked or supplemented so calculated that working or supplementing thirty percent of their normally scheduled work hours during the pay period shall result in a bi-weekly pay amount equal to their regular bi-weekly pay. Employees who work more than thirty percent of their regularly scheduled hours shall forfeit paid childbirth adoption leave on an hour for hour basis for all excess hours.

Duration

Under no circumstances shall Adoption/Childbirth leave be taken beyond six weeks from the date of birth or placement of a child for 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 regular or irregular employees.

Payment

Employees on Adoption/Childbirth leave shall receive leave pay as described above over the four-week period through the regular payroll process until 160 hours of Adoption/Childbirth leave time, or 160 hours of Adoption/Childbirth leave combined with hours worked, has been exhausted or the appropriate pro-rated number of hours for part-time employees has been exhausted.

Overtime

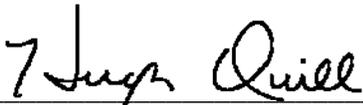
No portion of Adoption/Childbirth leave is to be included in calculating overtime.

Coordination with Disability Leave

An employee who gives birth may elect to utilize either Adoption/Childbirth leave or disability leave for the six weeks following the date of birth.

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 or may elect to utilize Adoption/Childbirth leave for the four weeks following the birth of the child without being required to serve an additional waiting period. If the employee continues to qualify for disability leave benefits immediately following the expiration of the Adoption/Childbirth leave, the employee may receive disability leave benefits for the duration of the disabling condition without serving an additional waiting period.

In the event that an employee is receiving disability leave benefits for a pregnancy and such benefits terminate prior to the expiration of any benefits the employee would have been entitled to under Adoption/Childbirth leave, the employee will receive Adoption/Childbirth leave for such additional time without being required to serve an additional waiting period.



Director, Ohio Department of Administrative Services

7/1/10

Effective Date