



ADOPTION-FRIENDLY WORKPLACE

— *signature program* —

Dave Thomas
Foundation *for* Adoption™

EMPLOYER TOOLKIT

davethomasfoundation.org/AFW



Dear Employers,

Dave Thomas, who was adopted as a child and is the founder of The Wendy's® Company and the Dave Thomas Foundation for Adoption®, started an initiative advocating for adoption benefits in the workplace more than 25 years ago.

For him, it was simply a matter of equity – if an employer provides benefits for families because of the birth of a child, why wouldn't they also acknowledge adoption? He began reaching out to other CEOs, and suggested they offer adoption benefits because, as he shared with everyone, "It's the right thing to do."

Today, the Foundation continues this legacy effort of Dave Thomas and encourages companies to support foster care adoption by providing education and information for employers to implement adoption benefits.

On behalf of the Foundation, we hope you find this Adoption-Friendly Workplace Employer toolkit to be a valuable resource. Thank you for sharing our belief that every child deserves a permanent home and loving family.

All good wishes,

Rita L. Soronen
President & CEO

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Year-after-year, organizations are raising the bar with their adoption benefits to attract, support and retain employees.

What are adoption benefits?

- Voluntary, employer-funded policies for employees who adopt.
- Financial reimbursement for adoption.
- Paid leave.
- Phased leave before and after adoption.
- Unpaid leave in addition to the [Family Medical Leave Act \(FMLA\)](#), ranging from one week to one year. The FMLA requires companies with 50 employees or more, and all public agencies, to grant 12 weeks of unpaid adoption leave.

How do employers benefit?

Employers are increasingly offering adoption benefits to:

- Strengthen employee loyalty, retention, goodwill and productivity.
- Gain a competitive edge in recruiting new employees.
- Enhance the company's family-friendly image.
- Recognize the need to support adoptive and biological parents.
- Give employees time to bond with their children.
- Make adoption more affordable.
- Help move children from foster care to loving, adoptive homes.

It's the right thing to do.

What expenses are covered by financial reimbursement?

Most employers use the IRS definition of "reasonable and necessary expenses directly related to the adoption of a child," which may include agency and application fees, home study costs, attorney fees, court costs, transportation, lodging and immigration. Some employers also include post-adoption services and counseling.

Are more companies offering benefits?

Yes. According to Aon Hewitt's 2015 survey of 1,000 U.S. companies, only 12% offered a financial adoption benefit in 1990. By 2015, that number rose to 56%. For companies to keep pace with their competitors, they must maintain a competitive benefits package that is on par with industry standards. Each year, the Dave Thomas Foundation for Adoption recognizes the 100 Best Adoption-Friendly Workplaces as well as adoption advocates across the United States. The Foundation also partners with an independent, nonprofit research institute to compile benchmark and breakout lists by impact, industry, size, paid leave and foster care.

What tax laws apply to adoption benefits?

- Employers should refer to the current [IRS Publication 15-B, Employer's Tax Guide to Fringe Benefits](#), which states financial adoption assistance is not subject to federal income tax withholding, but is subject to Social Security, Medicare and federal unemployment taxation. It should be reported in box 12 of the employee's W-2 using code "T" to identify the amount.
- Employees should refer to the current [IRS Topic 607, Adoption Credit and Adoption Assistance Programs](#), regarding income exclusions and tax credits for qualified adoption expenses. Consult a personal tax advisor for details.

What else can employers do to support adoptive parents?

- Include adoption in your employee assistance program.
- Connect employees with adoption networks or support groups.
- Educate employees about adoption with workshops or lending libraries.
- Understand that adoptive parents may need a flexible work schedule to address pre- and post-adoption challenges.
- Celebrate when employees adopt.

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SUMMARY OF TAX REGULATIONS



“
These
children
are not
someone
else’s
responsibility.
They are our
responsibility.”

”

—Dave Thomas

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This summary is provided for informational purposes only and is not intended to replace the counsel of a professional tax advisor. For more information from the Internal Revenue Service, visit [irs.gov](https://www.irs.gov).

What is an adoption assistance program?

An adoption assistance program is a formal, written plan maintained by an employer for the benefit of its employees. It is a voluntary program not mandated by law. The employer determines:

- Whether the adoption assistance program will apply only to employees who finalize the adoption, or also to those with unsuccessful adoption efforts.
- The amount of financial assistance and/or paid leave.
- Employee eligibility requirements.

An adoption assistance program must meet the following requirements:

- Benefit all eligible employees, not just “highly compensated.”
- Pay no more than 5% of its benefits to shareholders or owners (or their spouses or dependents).
- Give reasonable notice of the plan to eligible employees.
- Provide reasonable substantiation that payments or reimbursements are for qualifying expenses.

An adoption assistance program may be part of a cafeteria plan and may also include programs that reimburse members of the Armed Forces for adoption expenses. For more information, see [IRS Publication 3 Armed Forces’ Tax Guide](#). According to the Society for Human Resource Management’s (SHRM) annual survey of U.S. employers, 11% of employers provided adoption assistance in 2018, up from 6% in 2014 (SHRM, 2018).

What are adoption leave considerations?

The employer may choose to offer paid leave as part of its adoption benefits policy. The IRS does not offer any specific guidelines for paid leave.

The FMLA provides certain employees with up to 12 weeks of unpaid, job-protected leave per year. The law also requires that group health benefits be maintained during the leave. The FMLA applies to all public agencies, public and private elementary and secondary schools, and companies with 50 or more employees. These employers must provide an eligible employee with up to 12 weeks of unpaid leave each year for the placement with the employee of a child for adoption or foster care.

What are financial reimbursement considerations?

An adoption assistance program allows eligible employees to exclude from taxable income expenses paid or reimbursed by their employers on their behalf for qualifying adoption expenses. Provided all requirements are met, an individual may take advantage of the adoption credit and the income exclusion; however, the maximum dollar limit cannot be exceeded. The employee may take the adoption credit and exclusion for the same adoption, but not for the same expenses. The employee can claim the adoption tax credit for expenses that have not been reimbursed by the employer. The maximum amount of employer-provided adoption assistance that may be excluded from the employee’s income changes every year. The income exclusion begins to phase out for taxpayers with incomes in excess of a specified amount that also changes every year. Employees are encouraged to use a tax professional when they adopt.

For the credit and exclusion, qualified adoption expenses include:

- Reasonable and necessary adoption fees.
- Court costs and attorney fees.
- Travel expenses (including amounts spent for meals and lodging while away from home).
- Other expenses that are directly related to, and for the principal purpose of, the legal adoption of an eligible child.

An eligible child is an individual who is under the age of 18 or 21 (depending on the state law), or is physically or mentally incapable of self-care.

Qualified adoption expenses **do not include** expenses that a taxpayer incurs to adopt the child of the taxpayer's spouse.

Qualified adoption expenses include expenses incurred by a registered domestic partner who lives in a state that allows a same-sex parent or co-parent to adopt his or her partner's child and who otherwise qualifies for the credit.

Benefits paid under an adoption assistance program are not subject to income tax withholding; however, they are subject to Social Security, Medicare and federal unemployment taxes. Employers should report financial reimbursement for adoption in the employee's W-2 in box 12 with code "T."

Qualified adoption expenses paid by an employer under an adoption assistance program are fully deductible to the employer as reasonable and necessary business expenses. There is no special tax incentive for an employer.

FAQs



Note: *The financial reimbursement average referenced below is based on data supplied by companies recognized on the Dave Thomas Foundation for Adoption's 100 Best Adoption-Friendly Workplaces list in 2018.

Following are questions employees may ask about your adoption benefits policy. The responses have been taken from a variety of employer policies, with recommended answers that can be modified to meet your company's needs.

Who is eligible for adoption benefits?

Many employers maintain the same eligibility requirements for adoption benefits as they do for maternity or other company benefits. Most often, full- and part-time employees are eligible, and the effective date ranges from immediately upon hire to one year of service.

What types of adoptions are covered?

Most adoptions are covered, with the possible exception of stepparent adoptions. Kinship/relative adoptions are becoming more widely recognized by employers.

What expenses are covered?

Most employers reimburse for the following adoption expenses, up to a maximum amount:

- Agency fees.
- Legal fees and court costs.
- Medical expenses for a child not covered by insurance.
- Medical expenses of the birthmother.
- Temporary foster care expenses.
- Travel and lodging expenses.
- Immigration and naturalization fees.
- Immunization and translation fees.

What is the level of reimbursement?

Reimbursement ranges from \$5,000 to unlimited (*average is 9,000) per adoption. Some employers offer a slightly higher reimbursement for employees who adopt children with special needs.

When can reimbursement be requested?

Because the adoption process can be time intensive, companies should consider stages of reimbursement before the child is actually placed in the home – minimizing the up-front, out-of-pocket burden for employees. For example, a \$5,000 total reimbursement package might be offered as:

- Up to \$1,000 reimbursement once the adoption application is completed and filed with an agency.
- Up to \$1,000 reimbursement when the home study stage is completed.
- Up to \$3,000 reimbursement once the child is placed in the home.

Some companies allow employees to apply for reimbursement only when the child is placed in their home. It often takes at least six months from the time of placement for an adoption to be finalized, and most expenses are incurred prior to finalization.

If an employee adopted last year or is in the process of adopting, can he or she take advantage of this program retroactively?

Employers will have to make this decision. The Foundation recommends allowing employees who are in the process of adoption to participate fully, and those who completed an adoption in the past 12 months to apply for some type of limited reimbursement.

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What procedure should employees follow to obtain reimbursement?

Most companies require employees to complete an adoption reimbursement form that is available from their Human Resources department. Documentation of expenses related to placement are generally required.

Is adoption reimbursement taxable income?

Adoption reimbursements, in many cases, are not subject to federal income tax. Further information and forms are available from the IRS at [irs.gov](https://www.irs.gov) or 1-800-TAX-FORM.

Will adoptions of stepchildren be reimbursed?

Employers will need to make this decision. Some company policies differentiate between adoption of relatives or adoption of a stepchild. Many allow reimbursement for all adoptions.

How much leave time can employees take for adoption?

Many employers benchmark paid leave for adoption with an established maternity leave policy. Alternatives include:

- **Paid and unpaid leave for primary caregivers**

An employee, who is the primary caregiver, is eligible for a range of one to 18 weeks (average is seven* weeks) of fully or partially paid leave. This time may be utilized pre- or post-adoption, and will be applied to leave allowed under the FMLA. During Family Medical Leave, employees will continue to receive regular benefits, which are related to date of hire.

Some employers allow additional unpaid time off, ranging from one week to one year, in addition to the 12-week FMLA requirement. During this time, employees will continue to receive regular benefits, which are related to date of hire.

- **Paid leave for secondary caregivers**

An employee, who is the secondary caregiver, may be eligible for a range of paid leave as well. This time may be utilized pre- or post-adoption and will be applied to leave allowed under the FMLA.

- **Procedures for leave of absence**

Employees are asked to provide their manager and Human Resources department with as much preliminary information as possible about need for time off. This will prevent unplanned interruptions in departmental workflow while allowing employees to take necessary leave time.

What happens to an employee's benefits while on leave?

According to the FMLA, benefits will be maintained for the 12-week leave period. Your company policy may require employees to pay their portion of benefits premiums while they are out on leave. Most companies require employees who plan to be out longer than the 12-week leave period to make arrangements with Human Resources for continuation of benefits.

How much leave can employees take and still retain their current job?

An employee's position must be retained for a minimum of 12 weeks, according to the FMLA. Employees can direct additional questions about leave time to their manager or Human Resources department.

Are there alternatives for an adoptive parent returning immediately to work full-time?

This question should be considered in developing an adoption benefits program and will vary by employer. Some employers allow employees who take an extended leave to return on a part-time basis.

Note: *The leave time average referenced above is based on data supplied by companies recognized on the Dave Thomas Foundation for Adoption's 100 Best Adoption-Friendly Workplaces list in 2018.

Adoption Benefits News Release

Provided by the Dave Thomas Foundation for Adoption

Note: Items in red should be replaced with information specific to your company's decisions regarding adoption benefits in the workplace.

[Company] Implements New Benefits Policy to Become an Adoption-Friendly Workplace

[Company] will join the ranks of adoption-friendly employers across the United States with the establishment of a policy offering employer-provided adoption benefits.

[Insert quote from company executive] Example: "As a progressive company, we recognize that employees build their families in many ways. To support employees who are adoptive parents, we are pleased to announce that adoption benefits will be available to all full- and part-time employees effective immediately. We believe this is a valuable addition to our work-life benefits package, and more importantly, it's the right thing to do."

[Company's] new adoption benefits policy provides [\$x] financial reimbursement for expenses incurred for each child adopted, and offers [x] weeks of paid leave for parents to complete the adoption process and bond with their child.

"Adoption is an amazing, rewarding experience, which can be costly and time-intensive. Adoption benefits help to remove the barriers of affordability and time off work that many adoptive parents face," says Rita Soronen, president & CEO of the Dave Thomas Foundation for Adoption. "By establishing an adoption benefits policy, [Company] is also making it easier for employees to consider adopting one of the more than 123,000 children waiting to be adopted from foster care in the United States." Each year, the Foundation recognizes the 100 Best Adoption-Friendly Workplaces as well as adoption advocates across the United States.

[Consider adding a paragraph quoting an employee in the process of adoption about how this will positively impact their work and family life.]

For more information about [Company], please contact [Name, Title, Phone, e-mail].

For more information about adoption-friendly workplaces, visit the Dave Thomas Foundation for Adoption's website at www.davethomasfoundation.org/AFW.

Adoption Benefits Policy

Provided by the Dave Thomas Foundation for Adoption

Note: Items in red should be replaced with information specific to your company's decisions regarding adoption benefits in the workplace.

*Averages referenced are based on data supplied by companies recognized on the Dave Thomas Foundation for Adoption's 100 Best Adoption-Friendly Workplaces list in 2018.

Although policies differ from organization to organization, all adoption benefits programs have similar components. Adoption benefits are voluntary and not required by law. They must apply equally to men and women. The components outlined below are a good starting point for building a policy that is right for any organization. This policy can be tailored to meet your company's specific needs.

[Company Name] Adoption Benefits Policy

Effective [date]

Policy Overview

To offer assistance to all employees who are building families, a policy has been developed to provide eligible employees with adoption benefits – including financial reimbursement **[and/or]** adoption leave.

Eligibility

Effective [date], all **[specify full-time or full-time and part-time]** employees are eligible for adoption benefits **[specify immediately upon hire or after given length employment]**. If an employee and his/her spouse both work at **[name of organization]**, only one employee can utilize the financial benefit, but leave may be shared between the two parents **[or a variation of your choice]**. The employee must be actively or inactively employed at the time any financial reimbursement is made.

To be considered for this benefit, adopted children must be under the age of 18 or 21 (depending on state law). They may be a relative of the employee, but not a stepchild (when grandparents, aunts and uncles adopt, it is usually the result of an emergency; while stepchildren are generally still in the care of a biological parent).

Financial Reimbursement

Eligible adoption-related expenses will be reimbursed up to a maximum of **[\$x; specify amount – policies range from \$5,000 to unlimited – the average is \$9,000*]** per child or per adoption. Most expenses directly related to the adoption are reimbursable, such as:

- Application fees.
- Home studies.
- Agency and placement fees.
- Legal fees and court costs.
- Immigration, immunization and translation fees.
- Transportation, meals and lodging.
- Parent, child and family adoption counseling.

Timing and Procedure for Reimbursement

Upon placement of the adopted child, obtain an *Adoption Financial Reimbursement Form* from the Human Resources department. Itemized receipts for expenses must accompany the form. Employees should refer to Internal Revenue Service instructions entitled *Qualified Adoption Expenses* regarding taxation of financial benefits, tax credits and tax exclusions.

Reimbursements will be made **[choose either as expenses are incurred or after the adoption is finalized with a copy of the adoption decree.]** NOTE: employers are encouraged to consider reimbursement during the adoption process regardless of the outcome.

Adoption Leave of Absence

Employees who adopt from foster care must address the complex needs of children and teenagers who have suffered the trauma of abuse, neglect or abandonment.

- **Paid leave**

An employee who adopts, whether male or female, is eligible for up to [x weeks; specify time – most policies range from one to 18 weeks – average is seven* weeks] of [fully or partially] paid leave. This time may be utilized both pre- or post-adoption [or specify other timing], and will be applied to leave allowed under the Family Medical Leave Act (if FMLA is applicable to your organization).

- **Unpaid leave**

Additionally, the employee is eligible for up to [x; specify time – most policies range from one week to one year] additional weeks of unpaid leave.

- **Procedures for leave of absence**

Employees shall request time off from their manager as early as possible. Though many adoptions are unpredictable, this will prevent unplanned interruptions in workflow while allowing employees to take necessary leave time.

Effective

This policy is effective [date] and is subject to change.

Our Mission

Dramatically increase the number of adoptions of children waiting in North America's foster care systems.

We Believe

Every child deserves a safe, loving and permanent family.

No child should linger in foster care or leave the system at age 18 or 21 without a permanent family of their own.

Every child is adoptable.



Dave Thomas
Foundation
for Adoption[®]

Finding Forever Families for Children in Foster Care

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Visit our Resource Library

Learn more and access free resources, such as the Adoption-Friendly Workplace toolkit, to support the adoption journey at davethomasfoundation.org.

