

The Wright State University  
Adoption Assistance Plan

Effective June 1, 2008



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# The Wright State University ADOPTION ASSISTANCE PLAN

## SECTION 1 -- INTRODUCTION

**1.1 Purpose** -- Wright State University ("WSU") maintains The Wright State University Adoption Assistance Plan (the "Plan") to provide adoption assistance benefits to eligible employees of WSU. It is intended that the Plan meet the requirements of Section 137 of the Internal Revenue Code of 1986, as amended (the "Code") and that benefits paid to each employee under the Plan are excludable from the employee's gross income to the maximum extent allowable under Code Section 137. The purpose of the Plan is to reimburse eligible employees for all or a portion of the cost of certain qualified adoption expenses incurred by the employee.

**1.2 Effective Date, Plan Year** -- The Plan is effective on June 1, 2008. A "Plan year" is the calendar year. The Plan will only reimburse expenses incurred after both the Plan's effective date and after eligible employees have been given reasonable notice of the availability and terms of the Plan.

**1.3 Administration** -- The Plan shall be administered by a plan administrator (the "Plan Administrator"). The Plan Administrator shall be WSU, acting by and through its Department of Human Resources, or, as designated by the Board of Trustees of WSU, any employee or committee consisting of WSU employees. The Plan Administrator, from time to time, may adopt rules and regulations as may be necessary or desirable for the proper and efficient administration of the Plan and as are consistent with the Plan's terms. The Plan Administrator shall have the discretionary authority to construe and interpret the Plan and make factual determinations thereunder, including the authority to determine eligibility of employees, to determine the amount of benefits payable under the Plan, and to decide claims under the Plan's terms. Any Plan interpretation and any decision on any matter within the discretion of the Plan Administrator made in good faith shall be binding on all persons.

## SECTION 2 -- ELIGIBLE INDIVIDUALS

**2.1 Eligible Employees** -- Subject to the conditions and limitations of this section, an "eligible employee" is any WSU faculty or staff member who holds an appointment of 75% Annual Full-time Equivalency ("FTE") or greater and who is eligible to enroll in one of the WSU-sponsored medical plans. Dependents of employees are not considered eligible employees for Plan purposes.

**2.2 Eligible Child** -- An "eligible child" is any individual who, at the time the qualified adoption expenses are incurred, is under age 18.

## SECTION 3 -- AMOUNT OF REIMBURSEMENTS

**3.1 Maximum Reimbursement** -- Except as otherwise limited in the Plan, and subject to all of the terms and conditions set forth herein, the Plan will provide adoption assistance benefits to each eligible employee in an amount of up to the lesser of (i) \$4,000 or (ii)



the eligible employee's actual qualified adoption expenses in connection with the eligible employee's adoption of an eligible child. For purposes of this plan, reimbursement is limited to \$4000 per child per family.

**3.2 Funding** -- The adoption assistance reimbursement amounts provided herein shall be paid by WSU.

## **SECTION 4 -- REIMBURSABLE EXPENSES**

**4.1 Qualified Adoption Expenses** -- For purposes of the Plan, "qualified adoption expenses" shall include reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses that are: (i) directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the eligible employee, (ii) not incurred in violation of state or federal law, or in carrying out any surrogate parenting arrangement, (iii) not reimbursed by another source (e.g., grants, another employer).

Without limiting the generality of the foregoing, the following shall not constitute qualified adoption expenses for purposes of the Plan:

- Medical examination fees for the adopting parents
- Cost of personal items such as clothing and food for either parents or child
- Expenses incurred prior to eligibility under the Plan

## **SECTION 5 -- REIMBURSEMENT PROCEDURES**

No claim for adoption assistance benefits shall be considered by the Plan Administrator or paid under the Plan unless a participant has first completed and submitted to the Plan Administrator an Adoption Assistance Reimbursement Request Form (found in Schedule B) and has complied with all other procedures established by the Plan Administrator for the reimbursement of qualified adoption expenses. In addition, no adoption assistance benefits shall be paid out until the Plan Administrator receives evidence satisfactory to it that the eligible child has been placed in the eligible employee's home and the adoption has become final.

The Plan Administrator will provide notice in writing if a claim for adoption assistance benefits is denied and the Plan Administrator will provide a review of that claim if requested. Any claim for adoption assistance benefits will be processed in accordance with procedures established by the Plan Administrator, in its sole discretion.

## **SECTION 6 -- TAX TREATMENT**

**6.1 Exclusion From Income** -- Although a particular eligible employee's personal tax situation may result in such benefits not being excludable from gross income, benefits under this Plan are generally designed to be excludable from gross income under Code Section 137. Nevertheless, benefits under the Plan are subject to the Medicare portion of the Federal Insurance Contributions Act ("FICA").

**6.2 Tax Withholdings** -- WSU will withhold any applicable federal, state and local taxes, as required by law, from any payments made under the Plan and/or from the participant's



regular or any supplemental compensation from WSU. WSU will reimburse incurred expenses only (and not pay expenses directly). Any FICA taxes required to be withheld from benefits provided under this Plan shall be deducted from those benefits. If any benefit under this Plan becomes subject to federal income taxes (whether as a result of nondiscrimination testing, payment of benefits in excess of statutory limits or otherwise), any federal income tax withholding attributable to the taxable portion of any benefit may be deducted from the employee's other compensation in the same calendar year in which the benefit is provided.

**6.3 International Adoptions:** Qualified adoption expenses for the purpose of employer payments or reimbursements in an international adoption are treated as if they are paid in the later of the year in which the adoption becomes final, or the year the expenses are actually incurred. Thus, employer payments or reimbursements made in a year prior to the adoption becoming final are taxable income to the employee in the year in which they are made, but then are taken as an adjustment to the employee's income in the year in which the adoption becomes final.

**6.4 Tax Mitigation --** The Plan is intended to provide tax-free adoption assistance benefits to eligible employees pursuant to Code Section 137. However, subject to Section 7 of the Plan, WSU will provide the benefits described in this Plan even if such benefits are taxable or are in excess of the amount excludable under Code Section 137. Provided further, however, that no such benefit will be provided to an individual if the benefit would cause the Plan to become discriminatory.

**6.5 Filing Requirements for Married Employees --** Employees who are married must file a joint federal income return to treat the adoption expense reimbursements as excludable from gross income. For purposes of the Plan and this income exclusion, an employee who is legally separated under a decree of divorce or separate maintenance is not considered married.

**6.6 Tax Liability --** The tax liability on any payments made under the Plan is the sole responsibility of each participating employee. Neither WSU nor the Plan makes any warranty or representation as to whether any payment received by a person under the Plan will be treated as excludable from gross income for federal or state income tax purposes. A participant should consult a tax advisor to determine the proper treatment of the payments made under the Plan.

## SECTION 7--DISCRIMINATION

**7.1 Nondiscrimination --** The Plan is intended not to discriminate in favor of certain highly compensated employees as defined in Code Section 414(q). If in the judgment of WSU or the Plan Administrator, the operation of the Plan in any Plan year would result in such prohibited discrimination, then WSU or the Plan Administrator shall, in its full discretion, select and exclude from eligibility and/or coverage under the Plan such employees as shall be necessary to assure that, in the judgment of WSU or the Plan Administrator, the Plan does not discriminate.

## SECTION 8 -- MISCELLANEOUS

**8.1 Information to be Furnished to the Plan Administrator --** Eligible employees must furnish the Plan Administrator or WSU with such evidence, data or information as the Plan



Administrator or WSU considers necessary or desirable to administer the Plan. A fraudulent misstatement or omission of fact may be used to deny claims for benefits.

**8.2 Uniform Rules** -- The Plan Administrator shall administer the Plan on a reasonable and nondiscriminatory basis and shall apply uniform rules to all persons similarly situated.

**8.3 Gender and Number** -- Where the context permits, words in the masculine gender shall include the feminine and neuter genders, the singular shall include the plural, and the plural shall include the singular.

**8.4 Controlling Law** -- Except to the extent superseded by the laws of the United States, the laws of Ohio shall be controlling in all matters relating to the Plan.

**8.5 Interests Not Transferable** -- Except as otherwise expressly permitted by the Plan or as may be required by the tax withholding provisions of the Code or any state's income tax act, benefits under the Plan are not in any way subject to the debts or other obligations of the persons entitled thereto and may not be voluntarily or involuntarily sold, transferred, alienated, assigned or encumbered.

**8.6 Severability** -- In the event that any provision of the Plan is held to contravene the provisions of the Code or the regulations thereunder, or any other applicable federal or state law, the remaining provisions of the Plan will nonetheless continue in full force and effect, and this Plan will be construed as though any invalid provisions hereunder had not been included herein, as of the earliest date that such invalid provision first came into conflict with the Code or any final regulations issued thereunder, or any other applicable federal or state law.

**8.7 Employment Rights** -- Employment rights of an employee shall not be deemed to be enlarged or diminished by reason of establishment of the Plan, nor shall establishment of the Plan confer upon any employee any right to be retained in the service of WSU or to be promoted by WSU.

**8.8 Amendment or Termination** -- WSU reserves the right to amend the Plan at any time for any purpose or for no purpose and further reserves the right to terminate the Plan at any time in whole or in part for any reason or for no reason.

IN WITNESS WHEREOF, WSU has caused this instrument to be duly executed in its name and on its behalf.

Wright State University

By: Matthew V. Filipic

Name: Matthew V. Filipic  
Title: Senior Vice President for  
Business and Fiscal Affairs

Date: 11/12/2008



## SCHEDULE A: PROCEDURES TO APPLY FOR REIMBURSEMENT

Without limiting the generality of the Plan Document, in order to receive reimbursement of qualified adoption expenses, an eligible employee must satisfy the following requirements for submitting a claim, in addition to complying with any other procedures established from time to time by the Plan Administrator:

1. Complete the Adoption Assistance Reimbursement Request Form.
2. Attach itemized receipts for incurred qualified adoption expenses.
3. Attach a copy of the adoption placement certificate.
4. Send the completed Adoption Assistance Reimbursement Request Form and attachments to WSU's Department of Human Resources for processing.

A claim for adoption assistance benefits on the Adoption Assistance Reimbursement Request Form, together with all other requested information, must be received by WSU's Department of Human Resources no later than twelve (12) months after the earlier of (i) the placement of the eligible child in the eligible employee's home or (ii) the date the adoption becomes final. Adoption assistance benefits under the Plan will not be paid if a fully completed Adoption Assistance Reimbursement Request Form, together with all other requested information, is not received by WSU's Department of Human Resources before the end of the 12-month filing period.

The Plan Administrator will provide notice in writing if a claim for adoption assistance benefits is denied and the Plan Administrator will provide a review of that claim if requested. Any claim for adoption assistance benefits will be processed in accordance with procedures established by the Plan Administrator, in its sole discretion.



# SCHEDULE B: Wright State University Adoption Assistance Reimbursement Request Form

Name of Employee: \_\_\_\_\_ UID \_\_\_\_\_

Name of Child to be Adopted: \_\_\_\_\_ Date of Birth \_\_\_\_\_

Date Child placed in Residence : \_\_\_\_\_

Date of Final Adoption (Or projected date) \_\_\_\_\_

Attach the following:

Itemized receipts for incurred qualified adoption expenses

Copy of Adoption Placement Certificate

I hereby certify that this is a request for certified adoption assistance benefits as required under IRS section 137.

Employee Name \_\_\_\_\_ Date: \_\_\_\_\_

Submit this form with receipts to: Adoption Plan Administrator, Department of Human Resources, Wright State University