



Primary Circular 0090/2006

PRIMARY BRANCH

TO: BOARDS OF MANAGEMENT, PRINCIPAL TEACHERS AND ALL TEACHING STAFF OF PRIMARY SCHOOLS

Adoptive Leave Arrangements for Permanent and Temporary/Fixed Term Primary School Teachers

1. Introduction

- 1.1 The Minister for Education & Science wishes to bring to your attention recent amendments to the Adoptive Leave Act 1995 in relation to adoptive leave.

2. Adoptive Leave

- 2.1 Where a couple are adopting a child, adoptive leave may only be taken by the adopting mother. However, where a male teacher is the sole adopter, he is entitled to adoptive leave. Adoptive leave commences on the date of placement of the child.

- 2.2 The revised arrangements in respect of adoptive leave are set out in the following table:

	Adoptive Leave	Additional Unpaid Adoptive leave	Total leave
Adoptive leave commencing prior to 1st March, 2006	16 weeks	8 weeks if starting this leave before 1/3/06 12 weeks if starting leave after 1/3/06	24 weeks 28 weeks
Adoptive leave commencing on or after 1st March, 2006	20 weeks	12 weeks	32 weeks
Adoptive leave commencing on or after 1st March, 2007	24 weeks	12 weeks if starting this leave before 1/3/07 16 weeks if starting leave after 1/3/07	36 weeks 40 weeks

A teacher's incremental point will not be adjusted in respect of additional unpaid adoptive leave absence set out above. This arrangement will be retrospective to 28 November, 2005.

3. Additional unpaid adoptive leave

- 3.1 An adopting primary school teacher also has the option of taking, instead of statutory unpaid adoptive leave, the remainder of the school year as additional unpaid adoptive leave, i.e. up to and including the end of the school year (31st August), subject to the approval of the Board of Management.

4. Paid leave in lieu

- 4.1 Teachers on paid adoptive leave are entitled to paid leave in lieu in respect of school closures, including public holidays, subject to a maximum of 22 days. Paid leave in lieu is taken on completion of adoptive leave.
- 4.2 With effect from 28, November, 2005 teachers on statutory unpaid adoptive leave are entitled to paid leave in lieu in respect of public holidays occurring while on the statutory unpaid leave and teachers opting to take unpaid adoptive leave to the end of the school year (as per 2 above) are entitled to paid leave in lieu for any public holiday occurring provided the additional unpaid adoptive leave does not extend beyond thirteen weeks.

5. Temporary/Fixed Term teachers.

- 5.1 Teachers on a temporary/fixed term contract of employment have full adoptive leave entitlements while on adoptive leave (paid/unpaid) which occurs during the term of their contract. If a successive contract is secured with immediate effect from the expiry date of the first contract, adoptive leave entitlements will be maintained.

6. Time off for preparation classes/pre-adoption meetings

- 6.1 Since 28 November, 2005 adopting parents are entitled to paid leave to attend preparation classes and pre-adoption meetings (held within the State) with social workers/HSE officials during the pre-adoption process.
- 6.2 Application for paid leave to attend preparation classes must be made to the Board of Management, with evidence of dates and times of classes at least two weeks before the date of the first class or the class concerned.
- 6.3 A substitute teacher, paid by the Department, may be employed by the Board of Management to cover absences of adopting teachers to attend preparation classes.

7. Termination of additional unpaid adoptive leave in the event of sickness of the adopting parent.

- 7.1 If a teacher has made an application for additional unpaid adoptive leave or has commenced her/his additional unpaid adoptive leave and subsequently becomes ill, she/he may cancel the application or opt not to continue the additional unpaid adoptive leave and apply for sick leave.
- 7.2 The Board of Management must be contacted and the Board and the teacher must agree the date of termination of additional unpaid adoptive leave. The teacher will be deemed to be on sick leave and the procedures in relation to sick leave will apply. The teacher will not be entitled subsequently to take the additional unpaid adoptive leave or any part of it not taken at the time of commencement of sick leave.

7.3 The Department should be notified immediately that the teacher is now on sick leave, to facilitate necessary salary adjustment. The status of the teacher replacing the teacher on additional unpaid maternity leave will change from temporary/fixed term to substitute. The temporary/fixed term teacher taking up employment to cover the additional unpaid maternity leave should be made aware of the implications for her/him of the teacher on adoptive leave becoming ill.

8. Postponement of adoptive/additional unpaid adoptive leave in the event of the hospitalisation of the child

8.1 With effect from 30 January, 2006, if the child, for whose adoption a teacher is entitled to or is on adoptive leave, is hospitalised, the teacher may apply to postpone:

- part of the adoptive leave
- part of the adoptive leave and the additional unpaid adoptive leave or
- the additional unpaid adoptive leave.

8.2 An application for postponement of adoptive/additional unpaid adoptive leave must be made to the Board of Management, with evidence from the hospital in which the child is hospitalised. The Board of Management must notify the teacher as soon as possible of its decision in relation to the application for postponement of leave. If the leave is postponed, the Board of Management and the teacher must agree the date of his/her return to work.

8.3 The Department must be notified immediately by the Board of Management if the teacher is to return to work in order to facilitate salary adjustment, if any and the final payment process for the substitute/temporary/fixed term teacher.

8.4 The postponed leave must be taken in one continuous period commencing not later than seven days after the discharge of the child from hospital or on a date agreed between the Board of Management and the teacher.

8.5 The application to the Board of Management for postponed leave must include documentary evidence from the hospital or the child's doctor confirming that the child has been discharged and stating the date of discharge. The Department must be notified immediately of approval of the postponed leave.

8.6 If the teacher becomes ill while back at work and before she/he has taken the postponed leave, she/he will be considered to have started the postponed leave on the first day of absence due to illness, or she/he may forfeit the right to postponed leave and have the absence treated as sick leave. The procedures in relation to sick leave should be followed, including the furnishing of a medical certificate where appropriate.

8.7 A substitute teacher or a temporary/fixed term teacher covering adoptive leave /additional unpaid adoptive leave should be made aware by the Board of Management that their appointment may be terminated in the event of the teacher on adoptive leave returning to work while the child is hospitalised. The replacement teacher should be informed in writing that their employment "will be terminated on the return to work of an adopting parent employee who is absent from work in accordance with the Adoptive Leave Act 1995".

9 Entitlements of male teachers

9.1 Entitlement of male teachers to leave in the event of the death of the adopting mother while on adoptive leave

With effect from 1 March, 2006

In the event of the death of the mother within 32 weeks of the day of placement of the child, a male teacher who is the adopting father of the child is entitled to leave as follows:

- if the mother dies before the end of the 20th week following the placement of the child, the father is entitled to paid leave of 20 weeks less the period between the date of placement and the date of her death. At the end of this period he is entitled to apply for a further 12 consecutive weeks unpaid leave commencing immediately

Or

- if the mother dies after the 20th week of the placement of the child, the father is entitled to unpaid leave up to the 32nd week

With effect from 1 March, 2007

In the event of the death of the mother within 40 weeks of the placement of the child, a male teacher who is the adopting father of the child is entitled to leave as follows:

- if the mother dies before the end of the 24th week of the placement of the child, the father is entitled to paid leave of 24 weeks less the period between the date of placement and the date of her death. At the end of this period he is entitled to apply for a further 16 consecutive weeks unpaid leave commencing immediately

Or

- if the mother dies after the 24th week following the placement of the child, the father is entitled to unpaid leave up to the 40th week.

The abovementioned time periods will be increased, where appropriate, in accordance with relevant amendments to the Adoptive Acts 1995 and 2005.

Application for such leave must be made to the Board of Management immediately following the adopting mother's death and the period of leave must commence within 7 days of her death. As soon as is reasonably practical, the Board of Management should be provided with a copy of the death certificate of the adopting mother.

A substitute teacher may be employed to cover the period of adopting father's paid leave of absence and a temporary teacher may be employed to cover the period of unpaid leave.

9.2 Postponement of male teacher's leave in the event of hospitalisation of the child

In the event of the hospitalisation of the child while the father is on approved leave under 8.1, he may apply to postpone his leave or part of his leave.

The father must apply to the Board of Management to postpone his leave, with evidence from the hospital in which the child is hospitalised. The Board of Management must notify him as soon as possible of its decision in relation to the application for

postponement of leave and if the application is approved, the Board of Management and the teacher must agree the date of his return to work, which cannot be later than the date on which the leave is due to end.

The postponed leave must be taken in one continuous period commencing not later than seven days after the discharge of the child from hospital. The maximum period of postponement of leave is 6 months.

If the father becomes ill while back at work and before he has taken his postponed leave, he will be considered to have started the postponed leave on the first day of absence due to illness or he may forfeit his right to postponed leave and have the absence treated as sick leave. The procedures in relation to sick leave should be followed, and his application for postponed leave will be cancelled. The Department must be informed immediately of any change of status to the father's leave.

A temporary teacher employed to cover such leave should be made aware by the Board of Management of the implications to his/her employment in the event of the father terminating his leave if the child is hospitalised. The replacement teacher should be informed in writing that their employment "will be terminated on the return to work of an adopting parent employee who is absent from work in accordance with the Adoptive Leave Act 1995".

9.3 Termination of leave in the event of sickness of the father

If a male teacher becomes ill while on approved unpaid leave (as per 8.1), he may opt to cancel the unpaid leave and to apply for sick leave.

The Board of Management must be contacted and the Board and the teacher must agree the date of termination of unpaid leave. The teacher will be deemed to be on sick leave and the procedures in relation to sick leave will apply. The teacher will not be entitled subsequently to take any additional unpaid leave as a result of the death of the mother or any part of such leave not taken at the time of commencement of sick leave.

The Department should be notified immediately that the teacher is now on sick leave, to facilitate necessary salary adjustment.

This circular may be accessed on the Department Website at www.education.ie under Education/Personnel/Primary/Circulars & Information Booklets.

Please note that queries regarding the Circular may be e-mailed to primary_payments@education.gov.ie

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June, 2006