



**HUMAN  
RESOURCES**

# **Adoption Assistance**

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Plan Document

**VANDERBILT UNIVERSITY  
ADOPTION ASSISTANCE PLAN**

**SECTION 1 -- INTRODUCTION**

**1.1 Purpose --** Vanderbilt University maintains the Vanderbilt University Adoption Assistance Plan (the "Plan") to provide adoption assistance benefits to eligible employees of Vanderbilt University. 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 January 1, 2017. 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 Vanderbilt University, acting by and through its Department of Human Resources, or, as designated by the Board of Trustees of Vanderbilt University, any employee or committee consisting of Vanderbilt University 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 Vanderbilt University employee who has completed at least one (1) year of continuous service in a full-time regular position at the time such employee applies for a benefit under this Plan. 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 and unmarried.

**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) \$3,000 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 \$3,000 per child with a lifetime maximum limit of two (2) adoptions per family.

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

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

**4.1 Qualified Adoption Expenses** -- For purposes of the Plan, "qualified adoption expenses" shall include reasonable and necessary adoption agency and placement fees, court costs, attorney's fees, cost of temporary foster care for the child during the adoption process, immunizations (during the adoption process and prior to the finalization of the adoption), reasonable and necessary transportation and lodging associated with the adoption 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
- Expenses related to a surrogate parent prior to the adoption
- 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 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** – Vanderbilt University 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 Vanderbilt University. Vanderbilt University 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 benefit 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, Vanderbilt University 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 Vanderbilt University 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 Vanderbilt University or the Plan Administrator, the operation of the Plan in any Plan year would result in such prohibited discrimination, then Vanderbilt University 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 Vanderbilt University 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 Vanderbilt University with such evidence, data or information as the Plan Administrator or Vanderbilt University 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 Tennessee 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 Vanderbilt University or to be promoted by Vanderbilt University.

**8.8 Amendment or Termination --** Vanderbilt University 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.

## **SECTION 9 - GENERAL INFORMATION**

**9.1** Plan Sponsor: Vanderbilt University.

**9.2** Plan Sponsor's Federal Employer Identification Number is 62-0476822.

**9.3** The Plan Administrator is Vanderbilt University. The Plan Administrator may engage agents to assist it and may engage legal counsel, including counsel to defend any action taken or omitted to be taken pursuant to the written opinions or certificates of any agent, counsel, or physician.

**9.4** The agent for service of legal process is the Plan Administrator.

**9.5** The Plan is funded out of the general assets of the Employer.


9.6 The Plan is restated effective January 1, 2017.

9.7 The Plan Year ends December 31<sup>st</sup>.

9.8 The Plan Number is 513.

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

**VANDERBILT UNIVERSITY**

By:   
Title: Associate Vice Chancellor and Chief Human Resources Officer  
Date: March 21, 2017

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