



Universität Hamburg

DER FORSCHUNG | DER LEHRE | DER BILDUNG

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## Best Practice Guide: Combining Work and Family Life

# LEAVING AND RETURNING TO WORK — INFORMATION ON STATUTORY MATERNITY LEAVE AND PARENTAL LEAVE, IN PARTICULAR REGARDING THOSE ASPECTS OF THE ACADEMIC FIXED- TERM LABOR CONTRACT ACT (WISSENSCHAFTSZEITVERTRAGSGESETZ, WISSZEITVG) RELATING TO FAMILY POLICY

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# 1) GENERAL INFORMATION ON STATUTORY MATERNITY LEAVE AND PARENTAL LEAVE

## 1.1) Maternity leave: what provisions are in place?

- The Protection of Working Mothers Act (Mutterschutzgesetz, MuSchG) applies to all (expectant) mothers as soon as the pregnancy is disclosed to the employer. The employer is obligated to inform the responsible supervisory authorities of the pregnancy. This takes place via the Department of Human Resources, so please inform both your supervisor and your human resources clerk.
- The period of employment prohibition for mothers begins six weeks prior to birth and ends eight or twelve weeks after birth (in the case of multiples or premature birth, the period of employment prohibition for mothers is extended from eight to twelve weeks in the interest of good medical care).
- During employment prohibition, all expectant mothers are covered by state health insurance receive maternity benefits (€13/calendar day). The employer then pays the difference between this amount and net salary.
- Vacation entitlement cannot be reduced during the employment prohibition period or statutory maternity leave.
- Vacation time that could not be taken prior to the employment prohibition period can be transferred to the period after statutory maternity leave.
- Nursing is allowed for at least half an hour twice a day or one hour per day.
- A replacement staff member can be employed from the period of statutory maternity leave through the subsequent period of parental leave. Questions on this topic can be answered by HR employees.

## 1.2) PARENTAL LEAVE: WHAT ARE MY RIGHTS AND OBLIGATIONS?

- There is a legal right to parental leave for three years per parent following the birth of a child.
- Salary is not paid during parental leave.
- Job protection is in effect during parental leave.
- Anyone taking parental leave can work up to thirty hours per week.
- Parental leave must be registered seven weeks prior to starting. A binding declaration for two years is required. The application for parental leave must be submitted to the responsible HR section by the deadline.
- The period of parental leave is not used to calculate pay-grade level. When the employee returns to work, the time accrual governing pay grade resumes exactly where it ended prior to parental leave (one exception: in the case of part-time work

during parental leave, the period of employment is counted toward pay grade level as normal).

- If they care for the child themselves, mothers and fathers have a legal right to parental leave until their child turns three.
- Parents can decide for themselves which one of them will take parental leave. Both parents can take parental leave at the same time or one after the other.
- The period of employment prohibition for mothers (up to eight weeks after giving birth) counts toward the possible three-year overall duration of parental leave (see Section 15 subsection 2 of the German Parental Allowances and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz, BEEG)). Parental leave for the father can begin anytime from the birth of the child onward during the period of employment prohibition for mothers.
- Up to twelve-months of parental leave can be transferred to the period before the child's eighth birthday. The employer's approval is required for this transfer.
  - ⇒ Please note: New regulations are in effect for parental leave / parental pay for births after 1 July 2015: Employer approval is no longer required for the second and third phase. In addition, up to twenty four months instead of just twelve can be taken later. For more information, see: <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/Die-neue-Familien-Zeit--Folder-Dachkampagne,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf> (in German only)
- The vacation period to which you are entitled for the current vacation year is shortened by one-twelfth for every full calendar month of parental leave. If you have not taken any or all of the vacation days to which you are entitled prior to the start of parental leave, you must be given the remaining vacation days following your parental leave in the current or in the next vacation year.
- For additional information on parental leave, please see: <https://www.fid.uni-hamburg.de/intern/leitfaden-elternzeit.pdf> (in German only)

## 2) WISSZEITVG — FAMILY POLICY ASPECTS

### 2.1) DIFFERENCE BETWEEN FIXED-TERM EMPLOYMENT FOR QUALIFICATION PURPOSES AND FIXED-TERM EMPLOYMENT FUNDED EXTERNALLY

The MuSchG and the BEEG also apply to fixed-term contracts. However, it must always be determined in advance whether and under what conditions the contract can be extended in the case of parental leave.

For employees with a fixed-term contract in accordance with the WissZeitVG, it must be determined if their fixed-term contract is in accordance with Section 2 subsection 1 WissZeitVG (for qualification purposes) or in accordance with Section 2 subsection 2 WissZeitVG (externally funded fixed-term employment).

## 2.2) WHAT WILL HAPPEN TO MY (FIXED-TERM) EMPLOYMENT RELATIONSHIP?

### 2.2.1) FIXED-TERM EMPLOYMENT FOR QUALIFICATION PURPOSES

Academic staff with a fixed-term contract for qualification purposes in accordance with Section 2 subsection 1 WissZeitVG can be employed on a fixed-term basis for a period of up to six years prior to earning a doctorate and six years after earning a doctorate in order to complete the desired qualification.

In the case of academic leave due to statutory maternity leave or parental leave, Section 2 subsection 5 sentence 3 entitles the employee to extend the employment contract by the amount of time spent on academic leave.

Additionally, there is an extension option for academic staff in the qualification phase extending beyond the maximum employment period of twelve years: As a family policy aspect in accordance with Section 2 subsection 1 sentence 3, the permissible maximum fixed term of employment is extended by up to two years per child when the employee is caring for one or more children under the age of eighteen. The child's birth certificate and registration certificate must be provided for verification purposes. The two-year extension period is reduced, however, if the childcare period during employment as academic or artistic staff or during the doctoral and post-doctoral phase is not at least two years long. Accordingly, the maximum fixed term of employment can only be extended by the full two years if the multiple burden lasted at a minimum for the same length of time.

### **Legal framework conditions related to fixed-term employment**

#### Section 2 subsection 1 WissZeitVG (qualification phase)

- Six years of fixed-term employment are possible without doctorate.
- After doctorate is completed:
  - additional six years of fixed-term employment possible
  - plus x years (unused time for doctoral studies)
- Family policy aspects (Section 2 subsection 1 sentence 3 and subsection 5 WissZeitVG):
  - Maximum fixed term of employment can be extended by two years for care of every child under the age of eighteen.
  - Employment can be extended by the period of time spent, for example, on statutory maternity leave or parental leave.

Please note: The contract can only be extended by the unused contract period, not by the overall period of statutory maternity leave or parental leave.

### 2.2.2) EXTERNALLY FUNDED STAFF

Staff whose employment term is fixed in accordance with Section 2 subsection 2 WissZeitVG within the scope of an externally funded project do not have a corresponding right to contract extension in the case of statutory maternity leave or parental leave. Employment is tied to a certain project with a limited duration.

- Exception: On request, DFG-funded projects offer a cost-neutral extension option (does not apply to clusters of excellence) and the possibility of a replacement staff member through equal opportunity funding. These options are not offered by other external funding sources.

Fixed-term employment for externally funded staff is also handled in accordance with Section 2 subsection 1 WissZeitVG when the appropriate requirements have been met. In this case, the employee has the same rights as those listed in 2.2.1.

In the case of externally funded fixed-term employment, the following provisions are also in effect:

- family policy aspects (Section 2 subsection 1 sentence 3 and subsection 5 WissZeitVG):
  - Maximum fixed term of employment can be extended for care of every child under the age of eighteen.
  - Extension by the period of time spent, for example, on statutory maternity leave or parental leave is not possible.

### 2.3) SUMMARY AND RECOMMENDATIONS

Issues related to fixed-term employment in accordance with the WissZeitVG always depend on which section the fixed-term employment contract falls under. We therefore recommend reviewing the contract or asking about the reason for the fixed term. Only employees with fixed-term employment in accordance with Section 2 subsection 1 WissZeitVG have a right to contract extension if they take parental leave.

- Important note: An informal, written declaration of consent must be submitted for contract extension/usage of the renewal option.
- Parental leave replacements: The supervisor submits an application to Dept. 6, Human Resources.
- Employees with externally funded fixed-term employment should contact the human resources clerk responsible for them in Dept. 6, Human Resources.

### 3) AMENDMENT OF THE WISSZEITVG — FAQs<sup>1</sup>

#### 3.1) WHAT WILL CHANGE FOR FAMILIES?

To promote greater compatibility of academic work and family obligations, the act initially provided for extension of the permissible fixed-term duration of an employment contract by two years per child if the employee is caring for one or more children under eighteen years of age (family policy aspects). The amendment clarifies that this also includes the care of stepchildren and foster children. In the interest of promoting mobility, the amendment also more precisely clarifies that career interruptions, such as for parental leave, cannot be counted towards the fixed-term limits for qualification purposes.

#### 3.2) IF AN ADDITIONAL CHILD IS BORN DURING THE EXTENSION PERIOD, CAN THE CONTRACT BE EXTENDED AGAIN?

Yes. This is because here, as well, childcare means that the available time cannot be fully used for academic work. The extension period is designed to compensate for this disadvantage.

#### 3.3) BOTH PARENTS ARE EMPLOYED AT A UNIVERSITY OR RESEARCH INSTITUTE. CAN BOTH OF THEM HAVE THEIR CONTRACTS EXTENDED IF THEY HAVE CHILDREN?

Yes, if both parents are in a qualification phase they can both extend their contract by up to two years per child.

#### 3.4) ONE PARENT WANTS TO TAKE PARENTAL LEAVE TO CARE FOR A CHILD. CAN THE CONTRACT BE ADDITIONALLY EXTENDED FOR CHILDCARE PURPOSES?

Yes, because extension of the contract due to parental leave is independent of the extension granted for childcare purposes. Both provisions can be used. An example: One parent takes parental leave for one year in order to fully concentrate on providing childcare. Accordingly, the contract with the employer is automatically extended by one year — effectively compensating for the parental leave period. Because the parent still cares for the child after returning to work from parental leave, however, he or she can also benefit from the family policy aspects of the WissZeitVG that provide for extension of the permissible fixed-term limits.

Please note: Other provisions are in effect for civil servants in some cases. Please clarify your situation with the responsible HR staff, taking the information from the following links into consideration:

<http://www.hamburg.de/contentblob/70418/data/gesetzliche-vorschriften.pdf> (in German only)

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<sup>1</sup> Source: <https://www.bmbf.de/de/karrierewege-fuer-den-wissenschaftlichen-nachwuchs-an-hochschulen-verbessern-1935.html> (retrieved on 29 August 2016) (in German only)

<https://www.uni-hamburg.de/familienbuero/arbeiten-mit-kind/elterzeit/download/up-hmbeltzvo.pdf> (retrieved on 29 August 2016) (in German only)



## 4) ADDITIONAL INFORMATION ON THE TOPIC

### 4.1) THE FAMILY OFFICE OF UNIVERSITÄT HAMBURG: WEBSITE AND EVENTS

The Family Office coordinates and communicates all information regarding compatibility of career or studies and family and operates the following online information platform:

<https://www.uni-hamburg.de/familienbuero.html>

There is also the annual Scientific Career and Parenthood event (held in English) hosted by the Family Office in cooperation with the Clusters of Excellence CUI and CliSAP as well as SFB 676.

Please also refer to the following handout on statutory maternity leave/parental leave:

<https://www.uni-hamburg.de/en/familienbuero/download/10stepstomaternalleave.pdf>

### 4.2) LITERATURE

German Association of University Professors and Lecturers (Deutscher Hochschulverband, DHV)—BRIEF INFORMATION: *Der rechtliche Rahmen für Mutterschutz, Elternzeit, Teilzeit und Beurlaubung aus familiären Gründen für wissenschaftliches Personal an der Hochschule* (legal framework on statutory maternity leave, parental leave, part-time employment, and academic leave for family reasons for academic staff at universities, in German only):

[http://www.hochschulverband.de/cms1/fileadmin/redaktion/download/pdf/info\\_blaetter/Mutterschutz.pdf](http://www.hochschulverband.de/cms1/fileadmin/redaktion/download/pdf/info_blaetter/Mutterschutz.pdf) (retrieved on 29 August 2016)

Gewerkschaft Erziehung und Wissenschaft (GEW): *Vereinbarkeit von Familie und wissenschaftlicher Qualifizierung* (legal guide on reconciling family obligations and academic qualification measures, in German only):

<https://www.gew.de/suche/?id=21&L=0&q=Vereinbarkeit+von+Familie+und+wissenschaftlicher+Qualifizierung> (retrieved on 29 August 2016)

## 5) RETURN TO WORK AND CHILDCARE

### 5.1) WHAT MUST/SHOULD I TAKE INTO ACCOUNT BEFORE, DURING, AND AFTER MY RETURN TO WORK?

#### 5.1.1) BEFORE TAKING ACADEMIC LEAVE

Discuss the following with your supervisor:

- start and duration of academic leave
- if and under what conditions you can return to your old job

- the possibility of designating a contact person responsible for passing on information on specialist, human resources, and legal changes to you during your academic leave
- ways of staying in contact and actively involved, e.g., in research and teaching
- any existing teaching responsibilities
- whether or not you will be able to maintain your intranet access or access to the FHH portal during your leave
- whether or not you want to receive information on university happenings and events during your leave
- the handover process for your work area

Applying to Human Resources for academic leave and covering the following discussion points:

- start and duration of academic leave as well as extension possibilities
- options for working part-time during parental leave/academic leave or other ways of maintaining a connection to the University (for example by telework, continuing research with support from research associates or student employees)
- regulations and consequences as per laws on pension provisions
- personal contact data

### *5.1.2) DURING AND AFTER ACADEMIC LEAVE*

- Apply for an extension or part-time employment following your return to work in written format in good time before your academic leave ends (approximately three to six months before the end of your leave).
- Clarify and make use of options for professional development and qualification (e.g., via HR Development).
- Contact your supervisor in a timely manner in order to coordinate your return to work.
- Plan the introductory phase.
- Explore options for part-time work, maintaining a home office, or alternating telework.
- Coordinate with your supervisor to determine whether or not internal workflow procedures are compatible with family needs or if they can be adapted as necessary.

## **5.2) GREATER FLEXIBILITY OF WORKING TIME AND WORKING LOCATION**

### *5.2.1) PART-TIME EMPLOYMENT*

- The Collective Agreement for the Public Sectors of the *Länder* (Tarifvertrag für den öffentlichen Dienst der Länder, TV-L) and the German Part-Time and Fixed-Term Contract Act (Teilzeit- und Befristungsgesetz, TzBfG) fundamentally include regulations on part-time employment.
- In accordance with Section 6 TzBfG, the employer must provide employees with the option of part-time work pursuant to the TzBfG.
- In accordance with Section 8 TzBfG, employees have a right to reduce their working time.
- In particular part-time employment for family reasons is regulated in
  - Section 11 subsection 1 TV-L,
  - Section 3 PflegeZG, and
  - Section 15 subsection 4 BEEG.

### 5.2.2) *SHORT-TERM TELEWORK / HOME OFFICE / ALTERNATING TELEWORK*

short term telework (maximum of four weeks)

- working from home, no extension possible
- reasons for use: exceptional family circumstance or family crisis situations, health-related problems
- possible loaning out of technical equipment by UHH
- supervisor's approval required, as is positive assessment of the suitability of the tasks and the individual for working from home

home office (possible for one year)

- working from home, possibly also for longer periods of time, with own equipment, maximum of ten hours per week
- fixed agreement regarding working time at home and presence at Universität Hamburg
- tasks and the individual must be suited to home office work; supervisor's approval required

alternating telework (long-term telework, one year, annual extension possible)

- working from home for a longer period of time
- fixed agreement regarding working time at home and presence at Universität Hamburg
- application approximately three months in advance
- tasks and the individual must be suited to telework; supervisor's approval required
- set-up and assumption of costs for IT equipment and software

### 5.2.3) *PARENT-CHILD ROOM*

### 5.2.3.1) The parent-child room in the University Administration

The parent-child room at Mittelweg 177, Ground Floor, Room S 0014 is available to all University Administration employees for short-term gaps in childcare (Please note: The room now has a new location in the south wing of the building!)

Please contact us for additional information and to complete the registration process required prior to first usage.

Advance registration required. Please send an email to: [familienbuero@uni-hamburg.de](mailto:familienbuero@uni-hamburg.de)

Reservation requests should be sent to: [st-mittelweg@verw.uni-hamburg.de](mailto:st-mittelweg@verw.uni-hamburg.de)

### 5.2.3.2) Parent-child room at the Cluster of Excellence CliSAP

Grindelberg 5, Room 107

For registration, reservations, and additional information, please contact the Gender Equality Advisor for the cluster:

Nicolli Povijac ([nicolli.povijac@uni-hamburg.de](mailto:nicolli.povijac@uni-hamburg.de))

### 5.2.4) ADDITIONAL FAMILY-FRIENDLY FACILITIES AT THE UNIVERSITY

A list of all facilities and advisory offices around campus dealing with compatibility of family and career or studies is available here:

- Our [Lageplan](https://www.uni-hamburg.de/familienbuero/download/lageplan.pdf) familiengerechte Hochschule (Family-Friendly University Map, in German only): <https://www.uni-hamburg.de/familienbuero/download/lageplan.pdf>
- More information on the University [APP](https://www.uni-hamburg.de/beschaefigtenportal/services/oeffentlichkeitsarbeit/online-services/apps.html) with the new family button and a link for downloading are available [here](https://www.uni-hamburg.de/beschaefigtenportal/services/oeffentlichkeitsarbeit/online-services/apps.html): <https://www.uni-hamburg.de/beschaefigtenportal/services/oeffentlichkeitsarbeit/online-services/apps.html>

### 5.3) ON-CAMPUS CHILDCARE OPTIONS (FIXED TIMES AND FLEXIBLE)

Studierendenwerk Hamburg created the Casper playgroup project for regular childcare in the late afternoon and evening hours. Both students and employees can use Casper. You do not need a childcare voucher for Casper.

For more information, please visit: [http://www.studierendenwerk-hamburg.de/studierendenwerk/de/familienservice/flexible\\_betreuung/casper-campus\\_spielgruppen/](http://www.studierendenwerk-hamburg.de/studierendenwerk/de/familienservice/flexible_betreuung/casper-campus_spielgruppen/)

The parent initiative UniEltern offers individual short-term childcare for up to eight hours per week. This service is designed especially for parents of preschool-age children, enabling them to begin studying again or return to work early on. A childcare voucher is not required for UniEltern either.

For more information, please visit: <http://www.asta-uhh.de/beratung/studierende-mit-kind/> (in German only)

In addition, the Studierendenwerk operates five childcare centers and has the capacity to provide regular care for some 370 children (between one and six years of age) of students and employees of Hamburg's universities: <http://www.studierendenwerk-hamburg.de/studierendenwerk/de/familienservice/kitas/>

Please note: A childcare voucher is not necessary for childcare at the childcare centers.

For complete information on regularly scheduled and flexible childcare around campus and on the childcare voucher system, please contact the Family Office or visit: <https://www.uni-hamburg.de/familienbuero/kinderbetreuung.html>

## 5.4) WHAT HAPPENS IF MY CHILD IS SICK?

### 5.4.1) LEGAL FRAMEWORK

- In accordance with Section 45 of Title V of the German Social Security Code (SGB V), parents have a right to ten days off per child (single parents: 20 days) when:
  - the child is under twelve years of age;
  - they have obtained a medical certificate attesting that the child is sick;
  - care is necessary;
  - there are no other childcare options.

### 5.4.2) PROCEDURE

- Submission of an application for time off of work without pay (general application) with attached certificate, forward to PSB (human resources clerk), withholding of salary: <https://www.ew.uni-hamburg.de/service/formulare/files/mitteilung-antrag-2016.pdf> (in German only)
- If you need more information or would like to submit the application, please contact Department 6, Human Resources: <https://www.uni-hamburg.de/beschaefigtenportal/abteilungen/personal/mitarbeiter.html>
- Submission of application for sick pay to the health insurance company (70% of gross salary, maximum 90% of net salary)

Please note: All employees with state insurance coverage have a right to sick child leave.

## 6) ADVISING SERVICES: TO WHOM CAN I TURN?

- The Family Office is available as an initial point of contact as well as for questions regarding childcare and general information on statutory maternity leave, parental leave, and greater flexibility of working time and working location: <https://www.uni-hamburg.de/familienbuero/kontakt.html>

- If you have questions on legal or organizational matters such as your employment contract, statutory maternity leave, parental leave, and sick children, please contact your human resources clerk: <https://www.kus.uni-hamburg.de/organisation/abteilung-6-personal.html>
- The HR Development Section is available to answer questions regarding telework / home office: : <https://www.kus.uni-hamburg.de/organisation/abteilung-6-personal.html> (in German only)
- The Equal Opportunity Unit can provide you with extensive information on equal opportunity and diversity issues at Universität Hamburg as well as on current calls for applications from the Equal Opportunity and Women's Advancement Fund: <https://www.uni-hamburg.de/gleichstellung.html> (in German only)
- You can also contact your Academic Staff Council (WIPR): <https://www.kus.uni-hamburg.de/organisation/personalraete.html> (in German only)
- In case of conflicts, please contact the Conflict Resolution Center: <https://www.kus.uni-hamburg.de/themen/gesundheit-familie-soziales-gleichstellung/soziale-beratungsangebote/konfliktberatung.html> (in German only)

