

Legal Connections



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"If your business is considering implementing new parental leave policies or other employee benefits, visit directory.cbalaw.org to find a qualified attorney who can help."

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ESTABLISHING PARENTAL LEAVE POLICIES

More and more of today's workforce consists of dual-income families, and this trend has changed the dynamic of parent/workers. Most employers currently have a policy on pregnancy leave, and many employers have begun to provide some form of paid leave to employees related to pregnancy and/or the birth of a new child. What employers need to realize, though, is their parental leave policies may be dangerously out-of-date.



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that will necessarily not be available to a male employee who can't get pregnant. In most cases, around six to eight weeks is required before a woman is medically recovered from childbirth. An employer can provide paid medical leave for all, none or some portion of that time without affording the same to its male employees.

However, the paid time off associated with the bonding between the parents and their new baby must be equal. This is because bonding time isn't based on the medical condition. One-size-fits-all policies that offer differing amounts of leave between parents often violate the law because they fail to adequately distinguish between these two different types of leave.

It's also important for employers to understand that while pregnancy does not count as a disability related conditions, like morning sickness or post-partum depression, can. When these conditions arise, it is important for employers to determine if an accommodation is necessary and reasonable.

In practice, parental leave policies often differ greatly depending on industry. Service-industry employers whose employees rely on tips for income will need different policies than a corporate employer whose employees' entire compensation comes in the form of their weekly paycheck.

It's not all doom and gloom, though. Your company has lots of options to create a parental leave policy that works for you; you just need to make sure you're careful in how you do it. ■

Most employers know that moms qualify for the Family Medical Leave Act, but they need to be aware of the fact that the FMLA allows for unpaid leave for both parents to bond with their new child. Because of this, the issue of leave isn't about time away from work, it's about compensating the individual during time away from work.

When crafting a policy that includes paid time for parental leave, employers need to consider two different but related concepts. First, policies need to take into account the medical needs of the mother. This need only applies to the mother as, biologically, pregnancy is a medical condition that only impacts women.

Second, along with mom's medical needs, policies need to account for bonding time between the new parent(s) and the baby. This need applies to both parents and is based on the adjustment time they need to adapt to and provide for the new human in their life. Paid leave associated with this need must apply to both parents, and when it doesn't, employers run into trouble.

It is permissible to provide a woman with paid parental leave related to pregnancy

PARENTAL BONDING LEAVE IS AN EXCITING NEW TREND FOR WORKING PARENTS

When my daughter was born, I remember planning early in the year the number of vacation days I would use following her birth and making sure to carefully allocate my additional vacation days throughout the year. This was our first child, so I was also unsure what an appropriate amount of time to take off would be. I ended up taking the rest of the week off following her birth and the week after that.



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Fifth Third Bank

are being enacted, according to respondents, is employee retention and to attract new talent.

These changes reflect a growing trend among new parents, not just mothers, of wanting to take more time off to spend with their families. In a Boston College study called "The New Dad," 89 percent of men want to take time off from work after the birth of

a child and think this leave should be paid. Furthermore, Ernst & Young's global generational survey in 2014 found that 83 percent of American millennials said they would be more likely to join a company offering paid parental leave.

While it is not realistic to expect all employers to enact a policy like this, it is an encouraging trend for new parents. The peace of mind I have knowing how much time I will be able to use if we have a second child and not having to worry about planning my vacation days in advance plays a fairly significant role in my overall job satisfaction. From talking with colleagues in a similar situation, parental bonding leave is important to them as well. ■

The views and opinions expressed in this article are those of the author.

The following year, the company I work for, Fifth Third Bank, created a parental bonding policy for eligible parents following the birth, adoption or foster care placement of a child. This policy provides four weeks of paid time off and can be used anytime within four months of the event occurring.

Fifth Third is not the only company creating a policy like this; the Society for Human Resource Management reported in its 2018 benefits survey an increase in its member organizations offering paid family leave from 2016. Paid maternity leave increased from 26 percent in 2016 to 35 percent in 2018. Paid paternity leave increased from 21 percent in 2016 to 29 percent in 2018. The top reasons these policies

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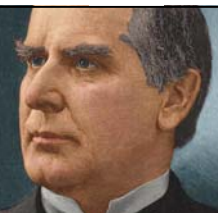
The Addicted Lawyer: A Conversation with Brian Cuban
Thursday, April 4 • 9 a.m. – 1:30 p.m.
4.0 Prof. Conduct CLE Hours (Free; open only to CBA members)

Webinar: Microsoft Office 365 for Law Firms
Thursday, April 4 • 2 – 3 p.m.
This event is free and exclusively for Columbus Bar members

Courtroom Presentation Technology
Wednesday, April 10 • 12 – 1:30 p.m.
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