

Employers should examine paid parental leave policies

The notorious absence of any federally mandated paid family leave in the United States was a significant issue during the 2016 presidential election. Recent legislative proposals indicate that the issue will only gain steam through 2020 and beyond. Paid parental leave is not a partisan issue, as demonstrated by legislators on both sides of the aisle introducing bills in 2019, including Marco Rubio and Kirsten Gillibrand.



Hilary Hudson Clifton is a litigation attorney who represents individuals and both privately-held and public companies in a wide range of civil litigation matters. [Click photo to visit her attorney profile.](#)

With parental leave policies under particular scrutiny, it is a good idea for employers to examine their existing policies. As it looks ever more likely that paid leave will be federally mandated in the not-too-distant future, now might be the right time for employers without a paid leave policy to consider implementing one.

Though [some states have passed laws](#) requiring paid parental leave benefits, Oklahoma is not among them, and employers in Oklahoma currently offering paid leave to new parents do so voluntarily. Still, employers could find themselves in legal trouble if their policies impermissibly distinguish between different classes of parents. For example, while it might be tempting to offer a certain period of paid maternity leave to a mother, and a different period of paternity leave to a father, employers must be careful to draft policies that do not discriminate on the basis of sex, sexual orientation, and other potentially protected categories.

Paid parental leave to care for a new child, sometimes referred to as bonding time, should apply equally to all new parents, including biological mothers and fathers, adoptive parents, and same-sex couples. However, with biological mothers requiring medical attention and recovery time related to pregnancy and childbirth, it is not discriminatory to offer biological mothers an additional period of paid leave, provided the policy specifies that such leave is for the mother's medical/physical needs.

Increasingly, employers around the country are opting for generous parental leave policies to attract and retain qualified employees. In that regard, employers considering a policy that offers a birth mother significant paid leave for recovery but little time for bonding and childcare might consider whether such a policy could encourage fathers or adoptive parents to look elsewhere for job opportunities.

With no federal or state mandate in Oklahoma, there remains

room for any employer to adopt a policy in line with its particular needs and preferences. That said, well-intentioned employers should [take measures](#) to avoid inadvertent discrimination in their policies.

Hilary H. Clifton is a litigation attorney with the law firm of [Phillips Murrah](#).

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