



PAID LEAVE POLICIES: FIVE COMMON MISTAKES CAN LEAD TO ATTRITION AND LIABILITY

Having a generous paid leave policy for employees can be a great recruiting and retention tool. Many organizations commonly provide at least 12 weeks, and sometimes 18 or more weeks, of paid maternity leave. Unfortunately, employers often make mistakes that undermine the usefulness of their leave policies and could even expose them to liability.

First mistake: limiting paid parental leave to women. Yes, women who give birth need time to recover and bond with their babies, but men and adoptive parents need bonding time too. In the long run, providing paid leave to men and women will pay off for the employer in reduced attrition, increased engagement, and lower health care costs. It can also help advance women by leveling the playing field. It weakens the stereotype that men do not have family responsibilities, and it undermines the implicit biases that women are less dedicated and more expensive employees.

Second mistake: providing disparate lengths of leave to male and female employees. Recognizing the foregoing, some employers provide one to two weeks of paid leave for fathers and 12 or more weeks of paid leave for birth and adoptive mothers. Not surprisingly, these employers may be exposing themselves to sex discrimination lawsuits. It's legally permissible to provide birth mothers with paid leave to recover from childbirth (typically six to eight weeks) without providing the same amount of paid leave to fathers and adoptive parents. Any additional period of paid leave given to mothers for the purpose of baby bonding, however, must also be given to fathers. This means if an employer gives a woman 12 weeks of paid leave for childbirth and bonding, it should give a man *at least* four to six weeks of paid leave for bonding. That is a floor and not a ceiling – nothing prevents an employer from providing men with *as much* paid leave as women.

Third mistake: trying to avoid the first two mistakes with a “primary caregiver” designation. Some employers try to dispense with maternity and paternity leave by having paid leave policies that use gender-neutral designations – “primary caregiver” and “secondary caregiver” – and provide longer leaves to the primary. These employers should be congratulated for their creativity and forward thinking. Unfortunately, using a “primary caregiver” designation does not necessarily solve the potential problems and may undermine the benefits of having a more egalitarian policy.

There are several problems with designating some individuals as primary caregivers. First, it arguably reinforces traditional gender roles because it's based on the notion that a child should

have one primary parent and one helper parent. Traditionally, women have provided most of the childcare in the U.S. such that the “primary caregiver” designation could be considered code for “maternity.”

Second, the use of the “primary caregiver” designation is out of touch with how many professionals organize their lives. Some argue the designation undermines the efforts of an increasing number of couples to be equal parents. Additionally, if permitted by their employers' policies, many couples “tag team” so one parent is a primary caregiver for the duration of his or her leave and the other is the primary caregiver immediately thereafter. This allows new parents to care for their child at home when he or she is too young to be left in a daycare center. Unless an employer administers its policy in such a way as to facilitate this approach, the leave policy may not be a retention tool.

Finally, the designation could put the employer in the awkward position of having to determine who is a primary caregiver. Is the employer going to have employees sign a declaration as to their status? Will the employer create criteria for determining who is a primary caregiver so if it denies an employee the designation, it can defend the decision as not being the product of unconscious bias? Will there be an appeal process? The administration of a primary caregiver policy may be more complicated than anticipated.

Fourth mistake: limiting paid leave to new parents. Employees may need to take extended periods of leave for family issues other than the arrival of a new child. They may provide care for an aging parent or a spouse with a serious illness. Employers that support their employees with paid leave in such situations will benefit from increased retention and engagement in the same way as when they support new parents. An additional bonus: making paid leave available for all employees reduces backlash against “special treatment” received by parents.

Fifth mistake: discouraging use of leave. Having a great policy is of little benefit if employees are afraid to use it. Discouragement, particularly for men, can come in the form of well-meaning “career advice,” hours-based reward systems that are not pro-rated to reflect leave, or a culture that subtly frowns on taking care of family needs (or is devoid of role models who care for their families and still advance professionally). A related mistake is a policy that requires paid family leave to be used in a continuous block. This practice can discourage employees from taking leave who cannot be completely away from their team or clients for weeks on end. A better practice is to allow employees to take leave on an intermittent or part-time basis, perhaps as part of a gradual-return-to-work policy, which can provide continuity for teams and clients.

Generous paid leave programs *done right* greatly benefit employers *and* employees. Let us know how we can help improve or enhance your organization's paid leave policy.*

*Every Alliance member is entitled to one policy review per membership cycle as part of your paid member benefits. [Contact us](#) for more information!