

No Good Deed Goes Unpunished: Inferior Parental Leave Policies Can Result in Discrimination Claims

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To recruit and retain top talent, employers often offer benefits more generous than required under the law. Such benefits include unlimited vacation, paid maternity leave and paid paternity leave. However, a recent US Equal Employment Opportunity Commission (EEOC) lawsuit filed against Estee Lauder Companies, Inc. (Estee Lauder) reveals how even the most well-intentioned of programs can result in a discrimination lawsuit.

Less than two months ago, the EEOC filed a lawsuit against Estee Lauder in the US District Court for the Eastern District of Pennsylvania (Case No. 2:17-cv-03897), alleging that its paid parental leave policy unlawfully discriminated against male employees in violation of Title VII of the Civil Rights Act of 1964 (Title VII) and the Equal Pay Act (EPA). In 2013, Estee Lauder adopted a new parental leave policy for its employees who are new parents, which provided new fathers two weeks of paid leave for “child bonding,” while new mothers received six weeks’ paid leave for “child bonding” (in addition to paid leave already provided to new mothers to recover from childbirth). As a result, the EEOC has asserted that new mothers were afforded flexible return-to-work benefits that were not provided to new fathers.

The EEOC’s position in the *Estee Lauder* lawsuit is not a new development. In fact, in its June 25, 2015, “[Enforcement Guidance on Pregnancy Discrimination and Related Issues](#),” the EEOC stated:

Leave related to pregnancy, childbirth, or related medical conditions can be limited to women affected by those conditions. However, parental leave must be provided to similarly situated men and women on the same terms. If, for example, an employer extends leave to new mothers beyond the period of recuperation from childbirth (e.g., to provide the mothers time to bond with and/or care for the baby), it cannot lawfully fail to provide an equivalent amount of leave to new fathers for the same purpose.

In other words, the EEOC views leave related to any pregnancy or childbirth-related physical limitations differently from leave for purposes of child bonding or care. Although the *Estee Lauder* case has not been fully litigated, the EEOC’s recent lawsuit is a reminder, as the EEOC stated in its [press release](#), that “federal law requires equal pay, including benefits, for equal work, and that applies to men as well as women.” Accordingly, it is recommended that employers evaluate their leave policies relating to “child bonding or care” to determine whether male employees who are new fathers receive lesser parental leave benefits as compared to their female counterparts.

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