

Paternal Leave vs. Maternal Leave

By **Elaine Varelas** October 7, 2015

Q. We are having twins. So we are planning everything we can in advance. How is it that mothers and fathers are still treated differently when it comes to time off to care for newborns? My wife knows how much time off she has. Between vacation time, and maternity leave, her paid time off is accounted for, and her unpaid time. It seems as the father, my time with my wife and babies is not very important – by corporate standards. I can use vacation time, and what else should I ask for so that I get paid time off to be with my family?

A. Congratulations on the pending arrivals! You will have much to learn, and how your organization views paternity leave, and what they pay for might be lesson #1.

I consulted Boston based Attorney, Rebecca Pontikes who explains, Mothers and fathers are not treated the same under the law. There are two different types of

leave: leave to care for a newborn or newly adopted child and leave to recover from childbirth.

Because only new mothers will need to recover from childbirth, leave for mothers and fathers is treated differently under the law. Your employer can give women more paid and unpaid time off than men, if the additional paid time off is to recover from childbirth.

Your employer has to apply the same policy to new fathers and mothers when it comes to time off to bond with and/or care for the baby. If your employer has a policy that covers time to bond with and/or care for a new baby, you should request leave under it, and you should get treated the same way as a new mother, including how you are paid for the time off.

If your employer has more than 50 workers, new mothers and fathers are entitled to take off up to twelve weeks of unpaid leave to care for a newborn or adopted child regardless of gender. Women can take leave for any period of disability associated with pregnancy, childbirth, or a related medical condition, although the FMLA does not give them any more time to do so. If your employer's leave policy provides for less time off than the FMLA, you can request additional time off under this law, Pontikes explained.

You can use any paid leave you have, such as vacation or sick time, while you are using up your FMLA leave. Your employer might require that you do that.

In Massachusetts, for employers of six or more employees, male and female employees can take up to eight weeks of unpaid leave to care for a child who is born or adopted. In Massachusetts, the eight weeks is per child, so with twins, you are entitled to sixteen weeks of unpaid leave. Again, women can take this time for recovery from childbirth. If your employer has fewer than 50 employees, and its policy for time off is less than sixteen weeks, you should request your additional time under this law. You can use your accrued paid time off to cover any unpaid time, and your employer can require that you use the time.

These issues are complex, and all employees on leave should maintain consistent contact with the office, and your manager during any leave. These communications will be key to continuing a strong working relationship and being seen as a key contributor for the long term.

-Elaine Varelas, Managing Partner, Keystone Partners

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