



Equal treatment for dads: EEOC settles first of its kind parental leave case

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The Equal Employment Opportunity Commission (EEOC) has reached a settlement agreement in the agency's first lawsuit challenging parental leave policies that grant more rights to new mothers than new fathers. In August 2017, the agency filed suit against cosmetic company Estée Lauder after a new father requested, and was denied, six weeks of paid leave and a flexible return-to-work schedule as a primary caregiver under the company's policy.

Under the Family and Medical Leave Act (FMLA), employers with 50 or more employees are required to offer 12 weeks of unpaid, job-protected leave to both new mothers and new fathers following the birth or adoption of a child. While there is currently no federal law requiring paid parental leave, most companies provide some form of paid leave, including, in some cases, paid caregiver or child-bonding leave.

Estée Lauder's policy provided paid leave to "primary" and "secondary" caregivers. Fathers, however, only qualified for the secondary caregiver category, which provided two weeks of paid leave to bond with a newborn. New mothers, on the other hand, could receive six weeks of child-bonding paid leave and a flexible return-to-work schedule as primary caregivers. In its lawsuit against the company, the EEOC maintained that Estée Lauder's policy provided fathers with "lesser rights" and fewer opportunities to bond with a newborn. According to the EEOC, if bonding leave is offered, both men and women must be able to take equal amounts.

The terms of the EEOC's settlement with Estée Lauder remain undisclosed. In light of the EEOC lawsuit however, employers should review their policies to make sure they clearly distinguish between disability or maternity leave following childbirth, which

applies only to biological mothers, and bonding or new parent leave, which the EEOC has stated cannot distinguish between fathers and mothers without violating Title VII and the Equal Pay Act.

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