

Well-Intentioned Employers May Get Tripped Up By Their Paid Leave Policies

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It has becoming increasingly common for employers to offer paid leave to new parents even though the Family Medical Leave Act (FMLA) does not require an employer to pay an employee who is taking this leave.

Unfortunately, good-hearted employers can inadvertently implement a policy that discriminates based on sex.

For example, if an employer offers paid child bonding leave to new mothers, it must extend the same benefit to new fathers as well. On August 20, 2017, the Equal Employment Opportunity Commission (EEOC) filed a lawsuit against Estee Lauder Companies, Inc. alleging that Estee Lauder's paid child bonding leave policy discriminated against men. In 2013, Estee Lauder adopted a policy that provided two weeks of paid child bonding leave to males and six weeks of paid child bonding leave to females.

Notwithstanding the fact that Estee Lauder was not required to offer any paid child bonding leave to males or females, the EEOC took the position that by not offering the same benefit to men and women, Estes Lauder was discriminating against men.

Estee Lauder reached an undisclosed settlement with the EEOC, but employers should carefully consider all the ramifications of paid parental leave policies in order to avoid inadvertent discrimination.