

# [ BIAS INTERRUPTERS ] *small steps big change*

## *Tools for Family Leave*

### THE CHALLENGE

According to a report by Better Life Lab at New America, nearly half of parents didn't take two days off work after the birth or adoption of a child.<sup>1</sup> Studies show that paid parental leave can reduce infant mortality rates and improve long-term child and maternal health.<sup>2</sup>

Family leave is not just about children. While 30% of Americans say they anticipate needing to take leave to care for a new child, *twice* that many (60%) say they anticipate needing to take at least some family leave in the future (including caring for ill, disabled, or aging family members).<sup>3</sup> In fact, one-sixth of Americans spend an average of 20 hours a week caring for a sick or elderly family member.<sup>4</sup>

The need for family leave policies is already here, and with a rapidly aging population, these needs are only growing.<sup>5</sup> In order to retain the best workers, companies need to step up and create comprehensive leave and work/life balance policies that work. While employers are expected to comply with all applicable Federal, State, and local laws regarding leaves of absence, employers can and should do more to truly support and retain a diverse workforce with caregiving responsibilities.

### THE SOLUTION

- 1. If you offer short-term disability leave, you need also to offer it for childbirth** (otherwise, that's pregnancy discrimination). Typically, this means that six weeks of leave will be covered by your disability policy for a vaginal birth; eight weeks for a cesarean section.
- 2. Determine the maximum paid parental leave your company can afford.** Keep in mind that typically few employees will have children in any given year, but that without paid leave you will often lose one employee after another when they have children. Don't assume you will

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<sup>1</sup> A. Lenhart, H. Swenson, & B. Schulte, "Lifting the Barriers to Paid Family and Medical leave for Men in the United States," December 2019. New America: Better Life Lab. <https://www.newamerica.org/better-life-lab/reports/lifting-barriers-paid-family-and-medical-leave-men-united-states/>

<sup>2</sup> Arijit Nandi et al., *The Impact of Parental and Medical Leave Policies on Socioeconomic and Health Outcomes in OECD Countries: A Systematic Review of the Empirical Literature*, 96 *The Milbank Quarterly* 434–471 (2018). <https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-0009.12340>; "Paid Family Leave Policies And Population Health, " *Health Affairs Health Policy Brief*, March 28, 2019: [https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/HPB\\_2019\\_RWJF\\_09\\_W.pdf](https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/HPB_2019_RWJF_09_W.pdf)

<sup>3</sup> A. Lenhart, H. Swenson, & B. Schulte, "Lifting the Barriers to Paid Family and Medical leave for Men in the United States," December 2019. New America: Better Life Lab. <https://www.newamerica.org/better-life-lab/reports/lifting-barriers-paid-family-and-medical-leave-men-united-states/>

<sup>4</sup> Paid Leave US, "Making Caregiving Work for America's Families," [https://drive.google.com/file/d/1K\\_4Eyd6rZi\\_om8qvRnzAeYiLwmW1WnyI/view](https://drive.google.com/file/d/1K_4Eyd6rZi_om8qvRnzAeYiLwmW1WnyI/view)

<sup>5</sup> 10,000 Americans turn 65 every day. - Paid Leave US, "Making Caregiving Work for America's Families," [https://drive.google.com/file/d/1K\\_4Eyd6rZi\\_om8qvRnzAeYiLwmW1WnyI/view](https://drive.google.com/file/d/1K_4Eyd6rZi_om8qvRnzAeYiLwmW1WnyI/view)

only lose women; increasingly, we hear from men who insist on taking parental leave and walk away from companies that don't provide it (although men often don't tell the companies they're leaving for this reason). Some states have paid laws to help cover the company's costs and extend the available paid leave time.<sup>6</sup>

- 3. Offer equal parental (not "primary caregiver") leave and allow intermittent leave.** So-called "primary caregiver" leave reflects a breadwinner/homemaker model that does not fit most families today. It also opens a company up to potential liability if someone openly states that primary caregivers are expected to be women, not men. Determine the amount of time your company can afford to offer—for all parents, men as well as women, and adopted as well as birth parents. Also, allow leave to be taken in small chunks rather than all at once; leave takers can work with their supervisors to create schedules that work for their teams.
- 4. Offer equal leave for everyone, including hourly workers (who are typically less able to afford replacement care). Paid parental leave is critical for helping families balance work and caregiving responsibilities and is tied to better maternal and child health.** Negative publicity can also result from offering more to professionals but not part-time or hourly workers.
- 5. Offer leave for all types of caregiving responsibilities.** Offering leave only to parents risks breeding resentment on the part of those who need to care for elders, or a family member with a disability or illness. If your company is worried that non-birth-related caregiving leave will be abused, require permission from HR or supervisors to ensure substantial caregiving responsibilities exist.
- 6. Set strong norms that everyone is expected to take their entire paid leave for childbirth/adoption.** Leaders need to send a strong message that employees are expected to take the full amount of paid leave available to them, and that taking additional unpaid leave will not count against them. The best way to do this is to celebrate a pregnancy/adoption announcement (for men as well as women) by offering a company-logo onesie and group announcement signaling that children are something to be celebrated, not hidden. Once that norm is set, pregnancy/adoption announcements can be followed by having HR (or supervisors, if they are on-message) tell men as well as women that they are expected to take their full leave. Supervisors may need training to do this effectively. If there is a cultural expectation to come back early, then that is exactly what most employees will do. If men are not taking leave, your messaging is not effective, and men who want work-life balance are likely leaving your company for this reason.

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<sup>6</sup> Check out your state's laws by visiting: <https://www.ncsl.org/research/labor-and-employment/state-family-and-medical-leave-laws.aspx>

**7. Eliminate the flexibility stigma.** Effective policies depend on cultural shifts in your organization. If you tell employees— and you should— that taking leave won't undercut their progress in the organization, then walk the talk. Make sure to plan for leaves effectively so that employees don't feel slighted when they return, and so that their colleagues don't feel like they are taking on undue burdens.

**8. Don't violate the Family and Medical Leave Act.**

It is illegal to interfere with or discourage any employee, male or female, from taking leave under the FMLA. Although employers are not completely forbidden from contacting employees while they are on leave, these calls should be limited to brief, necessary business-related calls. Communications to return to work early, weekly status checks, or calls to perform work while on leave can make an employer liable for interference with FMLA rights.<sup>7</sup> Calls to employees out on leave should be managed through Human Resources. It is illegal to penalize employees for requesting or taking leave, either before or after they do so.

**FMLA** requires employees to give their employer 30 days notice prior to leave that is foreseeable. Ideally, your employees who can foresee their need for leave will notify you at the same time that they notify their larger network of friends. By creating a workplace culture that is welcoming and encouraging of taking leave, employees will be more likely to give you notice earlier in the process. Consider adding this model policy into your employee handbook and reference leave availability and your leave transition process in employee onboarding trainings to set the right tone from the start.

**9. Use a three-meeting model for off-ramping.** Effective on- and off-ramping is vital, both to ensure smooth transitions and to eliminate the flexibility stigma.

(1) After a pregnancy announcement, the employee's supervisor should ask for a meeting, congratulate the future parent, hand out the company onesie (see # 6 above), and say: "We expect everyone to take their full paid leave—and the entire amount of unpaid leave available to them if they wish. We will develop a transition plan that works for you." At the initial meeting, assign a leave liaison if you have that program (see. #12 below).

*If your employee is an adopting or foster parent, or if your employee is taking family leave for elder care or medical reasons, the two meetings may be on an accelerated schedule.*

(2) Three months before the leave is set to start, the employee's supervisor should schedule a meeting, saying: "Come prepared with a list of all your ongoing projects and who you think might be a good fit to take them while you're on leave. If no one comes to mind, don't worry. We can figure it out together at the meeting, even if we need to hire temporary help—your list is just a jumping off point."

(3) Shortly before the expected leave date arrives, meet again to finalize the plan for transitioning job duties. The supervisor should ask about the employee's thoughts about post leave (understanding that plans may change). Are they thinking about returning on a

<sup>7</sup> Massey-Diez v. Univ. of Iowa Cmty. Med. Servs., 826 F.3d 1149, 1158 (8th Cir. 2016) (some courts have found that "asking or requiring an employee to perform work while on leave can constitute interference.").

part-time or flex schedule? For equity and legal reasons, make sure everyone taking family leave, regardless of gender, is asked the same questions.

- 10. Don't forget to ramp up when they return.** Often women return for maternity leave and find it is very difficult to ramp up due to assumptions that they have limited time, and perhaps limited commitment, to work. That's why it's important to schedule a meeting immediately when someone returns, with at least two weekly check-ins thereafter, to ensure that an employee returning from leave isn't being sidelined for projects because colleagues are benevolently (or not so benevolently) concerned about the returned employee's workload. Doing this helps avoid attrition—and helps prevent maternal wall bias from becoming a legal problem.
- 11. The best practice is a gradual-return-to-work policy.** The best way to ensure that employees do not return to an overwhelming wall of work, and end up leaving the company, is a gradual-return-to-work policy. Typically these start with a 50% schedule and gradually build back to full-time. Without a formal policy, companies often find that some supervisors handle the return-to-work well, but that others do so poorly, resulting in high attrition.
- 12. Designate leave liaisons.** Create a workplace mentorship program that links leave-takers with mentor colleagues. Mentors then act as guides on issues like off- and on-ramping and the transition into parenthood. Some firms expand these programs by offering employees outside coaching sessions or classes for new parents and paid travel expenses for care support, enabling parents to bring their children on work-related travel. See #9 for more ideas.
- 13. Broaden the scope of support.** Organizations can continue to support all employees beyond leave by offering family caregiving benefits. To start, here are some ideas:
  - Flexible and part-time schedules, see our **Toolkit for Workplace Flexibility** for guidance.
  - Get your employees a membership for regular or back-up childcare through providers like Care@Work, or better yet, offer on-site childcare.
  - You can also offer eldercare services through providers like Bright Horizons.
  - Help employees navigate pregnancy and postpartum with platforms like Mahmee or Maven.
  - Offer a travel allowance for caregivers on work-related travel and breastmilk overnight mailing services.
- 14. Schedule the time to review your family leave and work/life balance policies.** Like anything else that's a priority, add discussions on these policies to your strategic plan and budget meetings.

*This toolkit was adapted from the Harvard Business Review article: "Need a Good Parental Leave Policy? Here it is." by Joan C. Williams and Kate Massinger, available at: <https://hbr.org/2015/11/need-a-good-parental-leave-policy-here-it-is>.*