



A PRACTICAL GUIDE TO PARENTAL LEAVE FOR EMPLOYERS

What to Expect When Your Employee is Expecting





“The YLD believes this guide will be an important resource encouraging inclusiveness for attorneys who are also parents and/or guardians. While being a lawyer is important, many attorneys desire a proper work-family life balance. They want to be a great attorney, not a good one, and similarly want to be a great parent, not just a good one. This guide should assist lawyers and their firms in navigating the parental leave process so attorneys desiring to take leave, and employers with an attorney taking leave, can properly plan for that leave. This should allow for a smooth transition into, and out of, parental leave. Our hope is that this guide will foster a process that is inclusive to attorneys, seamless for clients, and is in the best interest of the employer by allowing attorneys to be great lawyers and great parents.”

*Adam White, President of The Florida Bar Young Lawyers Division
Emmanuel Sheppard & Condon, Pensacola*

INTRODUCTION

An attorney's need for parental leave is something most, if not all, offices face at some point. Parental leave can take many forms, including: maternity leave for a mother having a child, paternity leave for the father of a child, and parental leave for persons adopting or fostering a child. Every office is unique, with different staff sizes, caseloads, and practice areas and this requires individual choices that best suit the needs of the office. This guide seeks to provide employers with practical advice on how to proceed when an attorney is expecting a child in order to find the balance that works best for their firms.



“Understanding the need for policies and practices to support our colleagues with children doesn’t require that I be a parent. The success of my colleagues as a parent ensures they are fully present while in the office. Which is essential for the success of our office, our clients, and even myself. We hope this Manual will assist employees taking parental leave and employers and colleagues supporting them. Together we can ensure no one has to choose between being a lawyer and being a parent.”

*Iris Elijah
Chair of the Inclusion & Equality Committee,
Florida International University Office
of the General Counsel, Miami*



“My firm's parental leave policy and subsequent flexibility were incredibly important to my successful transition to and from maternity leave. In short, it made staying and succeeding in the profession a viable option for me and my family. The YLD hopes that the practical suggestions offered in this guide allow other young lawyers and employers to have a similar positive experience.”

*Anisha Patel
Vice Chair of the Inclusion & Equality Committee,
Hill Ward Henderson, Tampa*

HOW TO PREPARE FOR PARENTAL LEAVE



Lara Bach arguing In re: Amendments to The Florida Rules of Judicial Administration — Parental Leave, Case No. SC18-1554 before the Florida Supreme Court.

Preparing for parental leave is essential to ensuring an attorney's smooth transition away from and subsequent return to the office. In order to adequately prepare for an attorney's departure, communication is key, and the easiest way to accomplish this is to schedule an appropriate time to discuss parental leave issues with the impacted attorney. During this conversation, discuss with the attorney the applicability of any organizational parental leave policies, including any available benefits such as short-term disability benefits. As the pregnancy progresses, new issues or considerations may also arise and additional conversations may be necessary to deal with changing issues. This may include mandatory bed rest or a pregnancy loss.

Another important issue to discuss is the reallocation of work and client contact points during an attorney's leave. In addition, if the attorney participates in litigation, In Re: Amendments to the Florida Rules of Judicial Administration - Parental Leave, SC18-1554 addresses the parental leave continuance rule adopted by the Florida Supreme Court.

"Women are not that often lead counsel. And parental leave continuance rule could have a significant impact on that. Because right now they're being treated as though they can be sidelined in the cases and marginalized and simply replaced and assigned a new attorney. And it's not that simple, especially for solo practitioners."

Lara Bach, Weil, Gotshal & Manges LLP, Miami

While procedures for the reallocation of work and client contact inevitably differ for each employer, it is important to discuss and establish mutual boundaries and expectations regarding work product and communication while an attorney is absent. It is also important to discuss an attorney's expected time period of leave and anticipated return to work date.

Furthermore, the attorney and employer need to discuss communication techniques during the attorney's parental leave. Is the attorney willing to take any calls? Will the attorney be checking emails? Will the attorney be unreachable by phone or email for a certain timeframe but start to answer calls or check email again at some point during the leave?

Finally, consider the use of a "Leave Letter" to memorialize any discussions/negotiations that occur prior to the attorney's leave.





HOW TO NAVIGATE ISSUES DURING PARENTAL LEAVE & IMPENDING RETURN TO WORK

Time away from the office for parental leave is often anxiety-inducing for both employers and attorneys. The steps above describe ways to prepare for parental leave, and this section discusses the implementation of those steps.

Based on your prior discussions with the attorney regarding communication during parental leave, ensure that your firm implements the appropriate levels and proper methods of communication. It is important for the firm to recognize and acknowledge that an attorney may not be as responsive during parental leave, if at all, and to plan for that inevitability.

In addition to implementing steps for appropriate communication during parental leave, it is important to communicate with attorneys to address their return to work and any accommodations that may be needed when the attorney returns to the office. For example, adding a lock to a nursing mother's door or providing another lactation space if the attorney's office does not provide adequate privacy. New parents may also need flexibility in returning to work, and you may be inclined to explore mutually acceptable solutions, whether that is phasing back into the office a few days a week or telework.

Further, The Florida Bar Young Lawyers Division has repeatedly spoken about the importance of health and wellness during a young lawyer's career, as highlighted by the #StigmaFreeYLD campaign. The principles and objectives behind that campaign are equally applicable to new parents. More information about the #StigmaFreeYLD campaign can be found at:

<https://www.flayld.org/stigmafreeyld-campaign>

Finally, in addition to communicating with the attorney on parental leave, it is important to communicate with other office staff about how the attorney is transitioning back to the office. Be sure not to disclose any of the attorney's personal health information without the attorney's consent.



"Having a clean, comfortable, and secure space to pump breastmilk for one's child is vital to a nursing mother's successful return to work."

*Lyndsey Siara
13th Judicial Circuit Court, Tampa*

HOW TO ASSIST ATTORNEYS WITH TRANSITIONING BACK TO WORK

There are difficult and unique issues that an attorney faces after parental leave including but not limited to, availability of care, irritability of the child, nursing, and lack of adequate sleep. The most important thing an employer should remember is to have an open and compassionate mind when discussing issues with an attorney. A successful transition largely depends on support from the employer.

An employer can ease the transition by alerting the attorney to available resources. For example, your office's health insurance may include an Employee Assistance Program (EAP), mental health services, childcare services, or financial assistance services. An attorney may be uncomfortable discussing hardships with workload and balancing home, childcare, and work. As the employer, you can combat those feelings by initiating the conversation with the attorney instead of waiting for the attorney to seek help. If there is flexibility with workload or working from home, make that known to the attorney.

After the attorney transitions back to work, schedule a time to discuss any pending matters or tasks that require immediate attention. The attorney may not know the status of cases after weeks or months away from the office.

Finally, continue to check in with the attorney. An attorney that initially handled the transition without issue, might start to feel overwhelmed six months later when their child is going through a sleep regression or is teething and up all night. Do not be afraid to ask attorneys for feedback on the parental leave process. You can use feedback to modify policies and train other employees about parental leave.



"I think the best way to make sure attorneys can transition back to work easily is to create a plan to address all work while the attorney is on leave. All email and mail should be addressed and sorted prior to when the attorney returns so the attorney can pick up the work at the point of return and not dig out of everything since the leave started."

Alessandro Apolito
Lippes Mathias Wexler Friedman LLP, Jacksonville

RESOURCES

Additional parental leave resources are readily available. Below are some of the resources discovered during the preparation of this guide:

Florida Courthouse Lactation Room Inventory
(Revised July 2020)

FAWL Courthouse Lactation Room Handbook
(Revised June 13, 2019)

Mamava Lactation Room Locator
App: website

In Re: Amendments to the Florida Rules of Judicial Administration - Parental Leave, SC18-1554

Sample Parental Leave Policy

Article: Drafting a Parental Leave Policy

Article: Is a Parental Leave Policy Right for Your Business?

Dept of Labor - FMLA Guide

Congressional Research Service - Guide to Paid Family Leave in US

Maternity/Paternity Leave Toolkit - Legal Aid at Work





"Parental leave is crucial for both parents in this day in age. It was critical for me as a supportive father and supportive husband to a spouse—who happens to be a trial lawyer with serious ambitions and career goals. So it was important that I do my part."

*Harold Pryor
State Attorney for the 17th Judicial Circuit, Fort Lauderdale*

CONCLUSION

Providing parental leave has the ability to boost attorney morale, improve attorney retention, and promote attorney health and wellness. The important thing to remember about parental leave is each office is different and each individual has different needs. Flexibility and open communication are the easiest ways to ensure a successful parental leave and return for the employer and attorney.

For more information about The Florida Bar Young Lawyers Division's inclusion and equality efforts, please visit <https://flayld.org/inclusion-and-equality>



"As an adoptive parent, early bonding time was especially priceless for me. I was able to feed my daughter and firmly establish a close connection that extends to today. I am so appreciative of parental leave that allowed me to focus on my family."

*Randall Richardson
Office of Criminal Conflict and Civil Regional Counsel - First District, Jacksonville*

The Florida Bar provides this Parental Leave Guide strictly as a resource for any environment interested in creating or refining its parental leave policies and practices. This is not intended to provide, and shall not be construed to provide, legal advice and serves only to provide information for consideration to include in parental leave practices. The Florida Bar assumes no liability that may occur as a result of using this Guide.

