Trends in Paid Parental Leave Come to the Legal Industry: A Call to Action for Law Firms?

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As Chief Diversity and Professional Development Officer at Ogletree Deakins, I have seen that law firms specifically, and the legal industry, generally, face external pressures from clients, outside counsel, and diversity groups to maintain diversity initiatives. Recently, some of that pressure has been coming from sources external to law firms—namely, their own attorneys. As more companies offer their employees attractive leave benefits, law firms are following suit by offering their attorneys robust parental leave benefits. Here are some cutting-edge questions for companies promoting a work-life balance to consider in terms of their parental leave allowances, and trends in the promotion and advancement of women in law, including the Mansfield Rule and how it can positively impact the legal profession.

What are the forces that are driving employers to increase their parental leave allowances?

According to the U.S. Department of Labor, less than 13 percent of private sector workers in the United States work for employers that offer paid family leave. As companies look for new ways to recruit, develop, and promote top talent, paid parental leave is a valuable differentiator.

First, paid parental leave supports gender equality and working parents. It gives working parents the support they need to be there for their families during the first few months after a child's birth or adoption. Employers offering such benefits send a clear message that they care about the health, well-being, and livelihoods of the attorneys who are crucial to their business. Second, paid leave can increase retention and reduce turnover while boosting productivity and employee morale.

At Ogletree Deakins, we offer parental leave regardless of gender, to ensure that all primary caregivers have time with their children. Additionally, we recently extended our paid parental leave allowances for attorneys from 12 weeks to 16 weeks. We are pleased to see this trend growing in the legal industry with other firms extending their paid parental leave allowances as well.

Why is there a stigma for attorneys surrounding parental leave?

Even though a law firm or company may have a formal policy allowing employees to take paid leave, certain offices, departments, or practice groups in a firm may discourage actual use of the policy. Moreover, gender-specific cultural messages tend to reinforce the stigma. Research demonstrates that this is especially the case for men in the workforce who want to avail themselves of paternity leave. Men may fear...
that taking time off for family obligations will have a long-term deleterious impact on their careers—like lower pay, fewer opportunities on work assignments, or being passed over for promotions.

Additionally, attorneys might self-censure. For example, they may not take the full leave offered under a firm’s policy for fear of how they are going to continue to service their clients effectively. Worse yet, they may take less leave for fear that they will be perceived as not being as committed to the firm as attorneys who are not parents or caregivers.

**What can firms do to empower their attorneys to take parental leave?**

Law firms should be aware of the messages about parental leave coming from senior or supervisory attorneys, from peers, and from the firm itself.

Attorneys in senior roles who have benefited from a firm’s leave policies can set the tone for attorneys who have not yet had children. They can do so by talking about how taking advantage of the firm’s leave policies helped their situations. That tone really influences new parents to take leave.

Peer influence can change workplace culture too. The more attorneys’ peers take advantage of such programs and policies, the less likely attorneys will be to feel stigma over taking parental leave.

Respect, transparency, and a fair playing field are important in this discussion as well. Firms need to emphasize that attorneys taking advantage of such policies will be just as respected as those who don’t. And, there should be supportive practices in place to help ease attorneys’ transition back into the workplace after taking such leave. In addition, firms might want to offer resources, such as confidential coaching programs, to support attorneys who take parental leave. Ogletree Deakins recently launched such a program via its new business resource group, OD Family. See below for more on OD Family.

**What elements should firms consider including in a parental leave policy?**

First, a parental leave policy should compensate employees at their full pay rate. Offering any portion of unpaid leave at a time when an attorney’s household expenses are increasing due to the birth or adoption of a child undermines the policies’ ability to help retain legal talent. Second, any parental leave policy should be equally available to men, women, and adoptive parents to allow all caregivers to welcome new family members. In addition, any maternity leave policy should offer at least 12 weeks to allow women to recover from child birth and to adapt to the needs of their evolving families.

**Why might law firms want to create business resource groups like Ogletree Deakins’ OD Family?**

OD Family was launched in 2017 shortly after the firm extended its paid parental leave allowance. Recognizing that the firm wanted to do more to support caregivers transitioning back from leave was the primary impetus for the creation of this group. This group is now championing three new initiatives for 2018: (1) a new ramp-up policy which will provide an automatic 20 percent reduced billable hour requirement with 100 percent pay during the first few weeks when an attorney is returning to work after paid leave, (2) a back-up child care program for child care emergencies and special situations, and (3) caregiver coaching and mentors. OD
Family is also working with the firm's HR Department to support a so-called "Milk Stork" program that will help facilitate the mailing of breast milk back home for attorneys traveling on business.

**What can law firms do to create and promote work-life balance for their attorneys?**

First, law firms must not assume that flexibility and work-life integration are issues that pertain solely to female attorneys. Law firms need to offer multiple flexible work options for all attorneys. At Ogletree Deakins, we have a formal reduced-hours policy and program whereby attorneys, both male and female, can choose to work less than full time and receive prorated pay and promotional opportunities proportional to the percentage of work they perform. The firm has designated two "Reduced Hours Advisors" to support attorneys who participate in this program, helping to ensure that there is no schedule creep and reducing any perceived stigma.

The firm also maintains national memberships with two key organizations dedicated to promoting flexibility in the legal profession: The Diversity & Flexibility Alliance and Women's Leadership Edge.

The Alliance is a national organization dedicated to the promotion and engagement of female lawyers and work-life balance for all attorneys. The Alliance promotes the theory that in order to accelerate the advancement and inclusion of women in leadership, law firms and law departments must recognize the critical connection between effective flexibility programs that include non-stigmatized reduced hour options and a successful diversity initiative. Alliance members have the opportunity to leverage complimentary registrations to the Alliance's annual conferences and programs, which include quarterly teleconferences and webinars intended designed for reduced hours lawyers and their supervisors.

Women's Leadership Edge is an initiative that promotes the advancement of women. Members receive practical evidence-based tools that they can use to effectively retain, support, and advance women from within.

Membership in these organizations and initiatives has been vital to Ogletree Deakins' continued implementation of work-life integration best practices.

**What is the Mansfield Rule and how does it stand to improve hiring and retention within BigLaw?**

The Mansfield Rule—a rule that requires law firms to ensure that 30 percent of its candidates for leadership and governance positions are women and minorities—came about from a 2016 competition aimed at finding solutions to the gender gap in the legal profession. Diversity Lab, the organization that hosted the competition (which was known as the Women in Law Hackathon), has recently announced that 44 law firms will be piloting the Mansfield Rule.

The Mansfield Rule is intended to measure whether law firms have affirmatively considered women and attorneys of color in filling for leadership and governance roles, equity partner promotions, and lateral positions.

Beginning in June 2017, the Diversity Lab worked with firms to monitor their progress. Law firms that successfully piloted the Mansfield Rule will be designated "Mansfield Certified" and have the opportunity to send their recently promoted diverse partners to a two-day client forum in late 2018. The forum will be hosted by...
in-house counsel from the legal departments that have signed on to support this effort. Currently 55 legal departments have signed on, and at least 25 of them are Ogletree Deakins clients.

Just as the Rooney Rule ultimately improved the actual number of minority head coaches interviewed for and ultimately selected for head coaching positions, the Mansfield Rule will likely have much the same impact on the legal profession. Female and minority attorneys in leadership positions should increase in those participating firms. Ogletree Deakins plans to participate in the second round of the initiative in mid to late 2018. Law firms can expect to see their clients demanding that their outside counsel become certified in the near future.

**Are law firms making significant strides in this area? If so, how?**

Yes, law firms, including Ogletree Deakins, are making significant strides in this area. Women comprise more than half of the people in our firm, and, over the last four years, the majority of attorneys promoted to shareholder in the firm have been women (in fact, 8 of the 11 new shareholders we just promoted in 2018 are women).

Women now constitute 43 percent of our non-equity shareholders, which is well above the industry average of just 30 percent. Promotion to equity shareholder is based on established metrics, and our percentage of female equity shareholders is comparable to the industry average. Of those non-equity shareholders slated to be elevated to equity in January 2018, 50 percent are women.

Further, women and minorities are among our most talented and successful lawyers. We have 33 percent diversity (women and minorities) on the firm’s Board of Directors, 50 percent diversity on the firm’s Compensation Committee, and 23 percent diversity among our office managing shareholders. We also are proud that our firm has been recognized recently by at least 10 leading organizations for our achievements in diversity and gender inclusion.