



Children and Working in a Law Firm as an Attorney

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I am currently working in a mid-sized firm and am on track to become partner. Being a fairly new firm, there is no maternity leave and part-time policy in place. I am considering having a child, but still want to be considered for partner, while at the same time pioneering the path for a good maternity policy. Do you think I'll be able to achieve this, and, if so, how do I go about it?

Dear Victoria,

Thank you for your letter. In response, I sincerely hope that you will be able to achieve your goals of having a child, remaining on the partnership path, and pioneering a strong firm maternity and/or part-time policy. The key to success in this area is to: (1) become informed as to the State and Federal laws in this area and (2) approach a firm representative with whom you feel comfortable, aiming for an open and positive line of communication.

First, you mentioned that your firm is a "new" firm. This is a benefit to you. You and the partnership and/or human resources department can work together to establish a solid and protective maternity policy. Before beginning, become informed. It is important to know your rights in this regard. The Family Medical Leave Act and the Pregnancy Discrimination Act are two federal laws which protect your rights. The Pregnancy Discrimination Act protects against sex discrimination, treating pregnancy, pregnancy-related illness, and childbirth on an equal level with other medical matters. At last check, such law held that an employer with at least 15 employees could not fire or refuse to hire/promote a woman because she was pregnant and also could not force a woman to take a mandatory leave.

Benefits (such as seniority) also were required to remain "as is". Similarly, the Family and Medical Leave Act (FMLA) permits an employee to take as much as 12 weeks of unpaid leave in any 12-month period for certain events, including pregnancy. Certain criteria apply, however, in order to fall under this Act, such as, at last check: at least 50 or more people need to be employed by the company. There are other criteria as well—of which you should become informed. Notwithstanding the aforementioned federal protections, state and local laws can often vary dramatically. Before beginning any discussions with your partnership or human resources department, you should educate yourself on how such matters are handled in the Atlanta area.

Once you are legally informed as to your rights, the first line in achieving success with any goal in firm life is an OPEN LINE OF COMMUNICATION with the established partnership—or those charged with making firm policy. Approaching a partner, or human resources person, with whom you feel comfortable discussing your personal life is a solid first step. [Note: Women are not obligated to disclose personal goals regarding having/adopting children and it is against the law for an employer to ask you questions in this regard.] Inquire as to your firm's intentions on the matter of maternity



leave; delve into its opinion regarding the foregoing federal laws and applicable state rules. If you are experiencing some resistance, mention the financial benefits of having a maternity policy in place—such as lower turnover rates and higher morale. A firm without a strong maternity policy cannot hope to attract or recruit female employees and will likely be looked upon as “behind the times” or something less than an “equal opportunity” employer. To this end, remaining on the partnership track is also imperative—a firm without female partners who have children sends a bad message to clients, as well as new recruits.

As for your secondary concern addressing a part-time policy, this is often a more difficult road to pursue. Traditionally, firms are very hesitant to adopt part-time policies due to cost considerations (benefit payments outweighing work production), fear of abuse by employees, and general concern that attorneys will fall behind, knowledge-wise, in their class. Having said this, firms who have adopted such policies are looked upon as progressive and women-friendly, in particular.

Again, do your research. Before approaching the partnership, call the human resource offices of other local firms of similar size. Find out if they have a part-time policy in place. Ask them if they might send you a copy of their part-time guidelines. You would be surprised how helpful other firms can be in this regard. **KNOW THE MARKET** before approaching the partnership/human resources. Once you have done your local due diligence, let your firm know how their policies, or lack thereof, compare with other like firms. Competition is the motivating factor behind every law firm; everyone wants to be the best. Use this to your advantage in negotiating a solid policy. You may wish to not only suggest guidelines for such a policy, but also that admittance to such policy be determined on a “case-by-case” basis—as a case-by-case scenario often puts a partnership at ease. Hence, employees will feel confident that a policy is in place, and the partnership will feel confident that it has discretion as to who is allowed to join the “part-time” ranks.

In conclusion, do I think you will be able to achieve your goal? Yes! Like any good attorney, do your research and come prepared to the discussion table with facts, suggestions and ideas to make your firm a top player in Atlanta.