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Standing Up for the Rights of New Fathers

By [TARA SIEGEL BERNARD](#)

This was his third child, and this time around, he said he felt compelled to take action. So Mr. Levs, a reporter at CNN, filed [a charge](#) with the Equal Employment Opportunity Commission against Time Warner, his employer's parent company.

He took his case public on his [Tumblr page](#), where he laid out his reasoning: Birth mothers are entitled to 10 weeks of paid leave. The same policy applies to both men and women who adopt or have children through a surrogate. Biological fathers, on the other hand, receive only two paid weeks.

He said this left him with two choices: stay home for a longer period of time without pay or go back to work and hire help. "Neither is financially tenable," wrote Mr. Levs, who lives in Atlanta, "and the fact that only biological dads face this choice at this point in a newborn's life is ludicrous."

It was a gutsy move, particularly when there was a new child to feed. Time Warner declined to elaborate on the specifics of the case, though, on the surface, it appears to treat biological fathers as second-class parents compared to their peers. But what's fair and what is discriminatory under the law are two different matters (we'll get to those issues in a minute).

Time Warner's policy does happen to be more generous than that of many American employers, but the bar is pretty low. Most employers don't provide any paid paternity leave (A [study](#) conducted by the Society for Human Resource Management that polled human resource professionals found that a mere 15 percent of companies offered paid paternity benefits). Of course, the United States has one of the [least civilized policies](#) in the world when it comes to offering [paid leave for new mothers](#). So, it's no surprise that fathers are often treated as an afterthought.

But more workers may be starting to do more than quietly grumble about the policies, according to discrimination lawyers, researchers and legal experts who run a [workplace discrimination hot line](#). More employees — particularly men of the [millennial generation](#), whose oldest members are in their early 30s —

are filing legal actions against their employers, these experts say.

“What is happening is the new work-life pioneers are young egalitarian men exactly like this guy,” said Joan C. Williams, founding director of the [Center for WorkLife Law](#) at the University of California, Hastings College of the Law. “In many ways, these younger men are acting in ways that mothers have always acted: ‘I have family responsibilities that aren’t going away and either you accommodate them or there is going to be a fight against it.’ In many ways, this is economic contraction fueling gender equality.”

There aren’t any federal laws that explicitly prohibit discrimination against workers with family responsibilities, but [some states](#) and municipalities have more specific protections. The types of claim filed by Mr. Levs is brought under [Title VII](#) of the Civil Rights Act of 1964, enforced by the E.E.O.C., which prohibits employment discrimination based on sex. Mothers who claim they were treated differently from men with children file claims under the law, and so do fathers who say they were denied leave or benefits available to female caregivers.

That’s generally what Mr. Levs is contending. “If I gave up my child for adoption, and some other guy at Time Warner adopted her, he would get 10 weeks off, paid, to take care of her,” he wrote on his Tumblr page. “I, however, the biological father, can’t.”

It’s hard to predict exactly how the commission will view his claims. But Justine Lisser, an E.E.O.C. lawyer and spokeswoman, offered some insight into what may be considered sex discrimination in a hypothetical situation. It’s not necessarily wrong, for instance, if women were given a certain period of paid leave to recover from pregnancy and childbirth, while men (and women) were also entitled to the same period to recover from other medical conditions.

But it would be considered [sex discrimination](#) to give women paid time off to care for a newborn, but not give the same time to men. It would also obviously be wrong to have such a policy on the books, but then penalize men for using it. “We see this in some caregiving cases,” she said. “Women are presumed to need caregiving time off, but men are presumed not to be invested in their jobs if they want to take the same time for the same reason and are either denied it or demoted after using it.”

Mr. Levs’s lawyer, [A. Lee Parks Jr.](#), a civil rights lawyer in Atlanta, acknowledged that the policies could (and potentially should) be different for men and women. “The bizarre thing here is they give a significant amount of time if you are a certain type of parent,” he said. “So, they made a value judgment that, in those situations, that there is really a period where you need to bond.”

If you're curious about the legality of your company's policy, legal experts said to look at it as a breakdown of recovery time and bonding time. "Men should get the same bonding time," said [Cynthia T. Calvert](#), a senior adviser on family responsibilities discrimination at the Center for WorkLife Law. She suggests that employers designate six to eight weeks for recovery, and then anything beyond that should be deemed bonding time, and available to all parents.

Workplace experts who read Mr. Levs's blog said he appeared to take the right approach. He started the process two months before the birth of his daughter, followed his company's protocols and kept the matter confidential. You might start by simply asking your supervisor or human resources department for more information, just to be sure you're understanding the policy correctly. "You don't want to come on too strong, but at the same time, you want to be sure you've done everything in the system before you bring in the lawyers," said Ms. Calvert, who also [consults](#) with employers to shape their policies and train their supervisors to avoid discrimination. "Because then, everyone gets their armor on. People don't view you as a team player anymore."

If you have reason to believe your policy could be discriminatory, she said you might ask the human resources department if it considered whether the policy violated Title VII or any state antidiscrimination laws. In many cases, legal experts say, simply nudging employers works. "When we receive calls, we give callers the language they can use, and the employers almost always change their policies," said Ms. Calvert, who oversees a family discrimination [hot line](#) at the center. "That's why we don't have a lot of these cases on the books."

Still, men like Mr. Levs may be penalized even more than women when seeking flexibility after the birth of a child because they are stepping outside of their usual gender roles and flouting convention, [some researchers found](#). Several workplace experts report that men still suffer the consequences after taking unpaid leave through the [Family and Medical Leave Act](#) of 1993, which requires larger employers and public agencies to provide up to 12 weeks of unpaid leave for the birth or adoption of a child or to care for certain other family members.

"The organizations haven't yet caught up to the attitudinal shift among new dads," said Brad Harrington, executive director of the Boston College Center for Work and Family and a research professor in the Carroll School of Management. "Men who ask for leave time or who are more visibly active and involved in caregiving are experiencing a whole range of negative repercussions as a result of that."

Getting paid leave may do more to change perceptions, some experts say. "Men are supposed to make a

living, so if a benefit is not paid, it is not for them,” said [Eileen Appelbaum](#), an expert in workplace practices and senior economist at the Center for Economic and Policy Research, who supports a social insurance program that would replace a portion of pay for all workers who need to take leave. “But if it is paid, it changes the culture and expectation inside the organizations.”

And when men take time off after the birth of a child, it can have lasting ripple effects. Not only does it help create a connection with the child, but it sets the stage for a more egalitarian division of labor at home over the longer term. It could also help equalize the perception when women take time off. “If it is true that women will not be equal in the workplace until men are equal at home,” Ms. Calvert added, “it has greater repercussions as well.”