

? Ask Pat

Dear Pat,

I am a female attorney who has been with a mid-sized law firm for four years. My reviews have been excellent, my pay is equal to my peers and I am “on track” to make partner in the next two to three years. My husband and I are now planning to start a family. I am concerned that this decision will adversely

affect my ability to make partner, particularly since I anticipate that I will want, and need, to spend less time at work than I have historically invested, and more time at home with a new baby. I like my work and my colleagues. What type of response might I expect from my firm?

Sincerely,

Looking for Balance

Dear Looking,

The type of response you receive from your firm will likely depend on the news you deliver. For example, if your personal maternity leave does not exceed the number of weeks allowed by the firm and you return to work the same hours per week you have historically invested, you may expect to suffer little or no consequences. If, as you have indicated, you expect to spend more time at home with your family through either an extended maternity leave or a return to work on a part-time basis, or even a full time but less than pre-baby basis, you should expect to feel an effect on your long-term career goals. You need to be realistic about this effect and make the decision consciously and after being fully informed about your firm’s policies.

A decision to spend more time with family—and less time at the office—does impact both a woman’s earnings and her ability to reach partnership. Recent studies show that women who “opt out” of their professional careers suffer a “salary penalty” an average of 18 percent when they return to work. Among other reasons, this disparity may be attributable to choosing or being assigned a position with less responsibility or electing to work on a part-time basis. There is also the lingering perception that women who have families are less committed to their careers.

Some of the more progressive law firms have part-time programs for attorneys that provide pay based upon the amount of time worked and do not impact the partner “track.” For example, if you work 70 percent of what was once your full-time schedule, you could expect to earn 70 percent of your salary and still “make partner” at the same time you were originally scheduled. Some firms, however, impose penalties for part-time work. For example, you may earn only 60 or 65 percent of your full-time salary for working a 70 percent schedule. Similarly, many firms do not count part-time work as time invested on the partner track at all. If this describes your firm’s policy, an extended maternity leave or a return to work on a part-time basis is likely to impact your “track” to partnership in a significant way. What once was a seven-year track may evolve into a nine- or 10-year track after a year or two of part-time work. The key to making decisions about extended family leave or an abbreviated schedule is to be informed about your firm’s policy.

And don’t be surprised if your firm does not have a policy. Your firm may have a maternity leave policy for support staff but not for attorneys. Indeed, you may be asked to develop a policy. As you do, be sure to review policies from other firms. The invitation is an opportunity to develop a policy that is rooted in some of the more progressive approaches. Securing valuable statistics from your marketing colleagues will also provide information for your trailblazing efforts. For example, research shows that women who are given extended leave and part-time options during their childbearing years grow to become some of the most loyal and hard-working partners in later years.

Also consider seeking an “of counsel” position. Although the “of counsel” position is one of the least understood niches of the legal profession, “of counsel” may earn a salary based upon a combination of hours worked and work brought into the firm, or may earn a base salary with a percentage bonus tied to work brought in. Once reserved for very senior attorneys or judges who were 10–15 years past retirement, “of counsel” positions are now an attractive and viable option for associates because they may allow for the transition to partnership in a short period of time, as little as a year or two.

Regardless of your firm’s policy, the beginning point for you as you embark on this new phase of life is to determine whether your firm currently has a policy and to open the lines of communication between you and your managing partners to discuss mutual expectations and needs for your future with the firm.

Sincerely,

Pat

Ask Pat is a feature provided by the Committee on Women and the Profession. This is a question and answer column with a twist—“Pat” will answer questions about gender bias in the legal profession. All of the letters are loosely based on real events. Readers are invited to send their comments or letters to “Ask Pat,” State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860. “Pat” responses are provided by members of the committee.