

SAN FRANCISCO PAID PARENTAL LEAVE ORDINANCE (PPLO) March 1, 2017

Thank you for joining us! We will begin shortly.

This webinar will be recorded.

All phones have been muted to prevent background noise.

OVERVIEW OF TODAY'S WEBINAR

Moderator

Kelly Jenkins-Pultz,
Regional Administrator,
US Department of Labor
Women's Bureau

Logistical Coordinator

Deborah Pascal,
Program Analyst,
US Department of Labor
Women's Bureau

Speakers

Jenna Gerry, Attorney
Work & Family Program
Legal Aid at Work

Benjamin Weber
Senior Administrative Analyst
City and County of San Francisco
Office of Labor Standards Enforcement

Overview of Today's Webinar

- ☐ Overview of the Paid Parental Leave Ordinance
- ☐ Who is covered
- ☐ How to apply
- ☐ How to calculate what is owed to an employee
- ☐ How this interacts with other State and Federal laws



What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 12, 2016
- First of its kind in the United States
- Requires employers to supplement an employee's state **Paid Family Leave (PFL)** benefits
- Provides employees **working in San Francisco** with **6 weeks fully paid leave** to bond with a new child (newborn, adoptive, or foster)

SF mandates up to six weeks of fully paid parental leave



Kim Turner and daughter Adelaide Turner Wines, 2, attend a news conference in support of paid parental leave rights at City Hall before the Board of Supervisors voted on Supervisor Wiener's paid parental leave ordinance Tuesday April 5, 2016. The legislation will make San Francisco the first city in the country to require fully paid parental leave for employees. (Emma Chiang/Special to S.F. Examiner)

By Joshua Scharin on April 5, 2016 2:48 pm



San Francisco became the first city in the U.S. to allow new parents to take time off from work without taking a pay cut with Tuesday's

Trending Articles

SF mandates up to six weeks of fully paid parental leave

Woman charged with embezzling money from St. Ignace volunteer committee

End of an era: KGO Radio lays off news staff

Mayer's office to claim \$5 million in overpaid traffic citations

Happy 100th birthday to Herb Caen, with a twist

When your child has cancer, St. Jude is where hope begins.

Donate Now



COVERED EMPLOYER

- **Have Employee(s) Who Work in San Francisco**
- Employ Threshold Number of Employees:
 - **January 1, 2017** **50+** employees
 - **July 1, 2017** **35+** employees (See Rule 2 and definitions)
 - **January 1, 2018** **20+** employees
- Threshold Number of Employees include ***all employees worldwide***. This means:
 - seasonal, permanent, temporary, part-time, full-time, etc.; and
 - both employees who work in and out of San Francisco
- **Government entities are not covered employers**

WHAT IF I HAVE A FLUCTUATING WORKFORCE?

PPLO LOOKBACK PERIOD

Fluctuating Workforce:
number of employees
goes **up and down** from
week to week

Must look at **average**
number of employees in
PPLO Lookback Period
(12 weeks or 3 months
prior to employee's leave)

See Rule 2

EXAMPLE

- An employee's first day of Paid Family Leave is **August 7, 2018**
- The employer at that time only has 19 employees but workforce goes up and down each week.

| Number of employees performing paid work during the 12-week PPLO Lookback Period: | | | |
|---|--------------|----------|--------------|
| Week 1 | 19 employees | Week 7 | 25 employees |
| Week 2: | 23 employees | Week 8 | 22 employees |
| Week 3: | 17 employees | Week 9 | 17 employees |
| Week 4: | 20 employees | Week 10 | 20 employees |
| Week 5: | 20 employees | Week 11 | 25 employees |
| Week 6: | 25 employees | Week 12: | 19 employees |

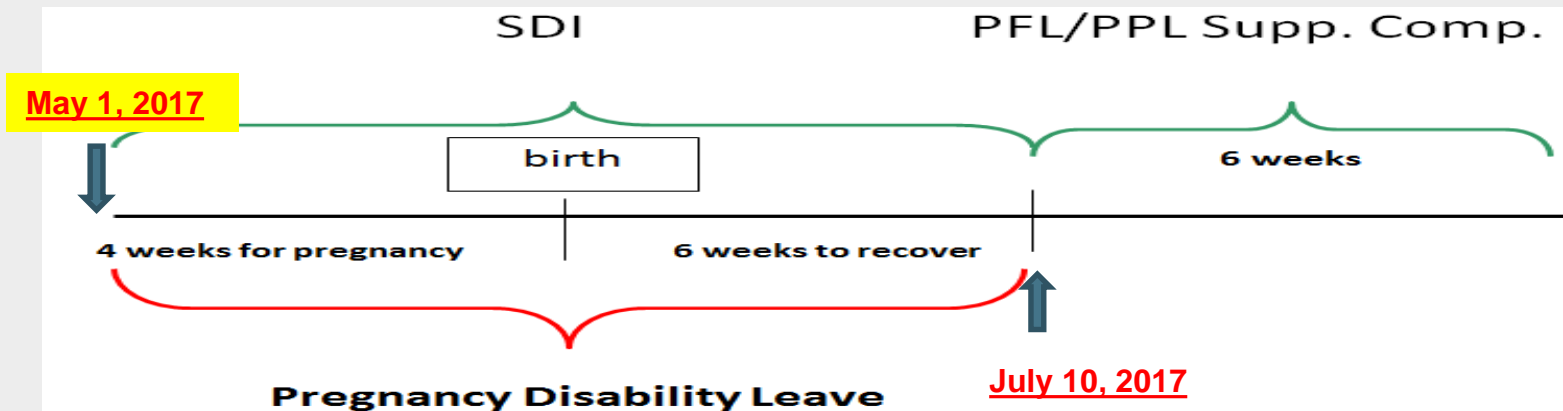
The average # of employees during the PPLO Lookback Period is **21**, so **the employer is covered by the PPLO** and must pay this employee Supplemental Compensation

PPLO LOOKBACK PERIOD

FOR WOMEN TRANSITIONING FROM *PREGNANCY DISABILITY LEAVE*

For **birth mothers** transitioning from **Pregnancy Disability Leave (PDL)**, **PPL Lookback Period** will be the **12 weeks or 3 months** prior to her **Pregnancy Disability Leave**, up to 26 weeks prior to Paid Family Leave period

EXAMPLE



***PPLO Lookback Period for Employer and Employee Eligibility is February 6, 2017 – April 30, 2017 (12 weeks prior to May 1, 2017).**

Covered Employer Must:

1. Post Notice
2. Provide employee(s) with copy of the San Francisco Paid Parental Leave Form (SF PPL Form)

*when employee returns SF PPL Form, sign and give copy to employee

3. Determine employee's eligibility
4. Calculate & Pay Supplemental Compensation

*Supplemental Compensation should be paid on **the payday for the next full pay period** following the employee's satisfaction of all preconditions (see Slide 10)

5. Maintain Records

All materials available on OLSE website

City & County of San Francisco Paid Parental Leave Ordinance



2017 Notice of Rights for New Parents

If you take time off work to bond with a new child, you may be eligible for SF Paid Parental Leave supplemental compensation from your employer, in addition to your weekly benefit from the California Paid Family Leave program.

Is Your Employer Covered?

| Business Size (Employees) | Effective Date |
|---------------------------|-----------------|
| 25 or more | January 1, 2017 |
| 20 or more | July 1, 2017 |
| 10 or more | January 1, 2018 |

Are You Eligible?

- Have you worked for your employer for 6 months (180 days)?
- Do you work a minimum of 8 hours per week (8.40% of your hours in San Francisco)?
- Are you receiving California Paid Family Leave benefits to bond with your new child?

Duration: Up to 6 weeks.

Amount

SF employer pays the difference between your weekly benefit from the California Paid Family Leave (PFL) program and 100% of your normal gross weekly wages (up to a cap). For 2017, California PFL benefits are 55% of weekly wages (up to a cap). So, in most cases, SF employer will pay 45% of weekly wages during your 6-week PFL period.

For more information, visit www.sfgov.org/pplo or call (415) 554-4190.

Ordenanza de Permiso de Ausencia Parental con Goce de Sueldo de San Francisco Aviso de derechos de nuevos padres 2017

Si usted se toma unos días libres de su trabajo para establecer el vínculo afectivo con un nuevo bebé, podría tener derecho a compensación suplementaria de permiso de ausencia parental con goce de sueldo de SF además de su beneficio semanal del programa de permiso de ausencia parental con goce de sueldo de California.

¿Está su empleador cubierto?

| Tamaño de Empresa (Empleados) | Fecha en que el empleador comenzó a aplicarse |
|-------------------------------|---|
| 25 o más | 1 de enero de 2017 |
| 20 o más | 1 de julio de 2017 |
| 10 o más | 1 de enero de 2018 |

¿Es usted elegible?

- ¿Ha trabajado para su empleador durante 6 meses (180 días)?
- ¿Trabaja un mínimo de 8 horas por semana y el 40% de sus horas en San Francisco?
- ¿Está recibiendo beneficios del permiso de ausencia familiar con goce de sueldo de California para establecer el vínculo afectivo con su nuevo bebé?

Duration: Hasta 6 semanas.

Cantidad:

Su empleador en SF paga la diferencia entre el beneficio semanal que define el programa de permiso de ausencia familiar con goce de sueldo de California (PFL) y el 100% de su salario bruto semanal normal (hasta un tope máximo). Para 2017, los beneficios del programa PFL de California son el 55% del salario semanal (hasta un tope máximo). Así es que, en la mayoría de los casos, el empleador de SF pagará el 45% del salario semanal durante su período de seis semanas de PFL.

Para obtener mayor información, visite www.sfgov.org/pplo o llame al (415) 554-4190.

三藩市帶薪育兒休假條例 2017年新父母權利通知

如果你休假期和新生建立感情，你可能有資格從你的雇主那裡獲得三藩市帶薪育兒休假補助金 (SF Paid Parental Leave supplemental compensation)。這是在你的加州帶薪家庭休假計劃 (California Paid Family Leave Program) 每週福利之外的補助金。

你的雇主合資格嗎？

| 公司規模 (員工數) | 雇主合資格日期 |
|------------|-----------|
| 25人以上 | 2017年1月1日 |
| 20人以上 | 2017年7月1日 |
| 10人以上 | 2018年1月1日 |

你符合資格嗎？

- 你是否為你的雇主已工作了6個月 (180天)？
- 你是否每週至少工作8個小時，及40%的工作時間都在三藩市？
- 你是否正獲得加州帶薪家庭休假福利，以便和新生建立感情？

持續時間：最多6週。

金額：

三藩市雇主支付你從加州帶薪家庭休假計劃 (PFL) 中獲得的每週補助金與你的正常每週工資總額的100%之間的差額 (不超過上限)。在2017年，加州PFL福利是每週工資的55% (不超過上限)。因此，在大多數情況下，三藩市雇主在你的6週PFL時期內，將支付每週工資的45%。

如需了解更多資訊，請訪問網站 www.sfgov.org/pplo 或致電 (415) 554-4190。

Office of Labor Standards Enforcement
(415) 554-6271

For more information
please visit www.sfgov.org/olse

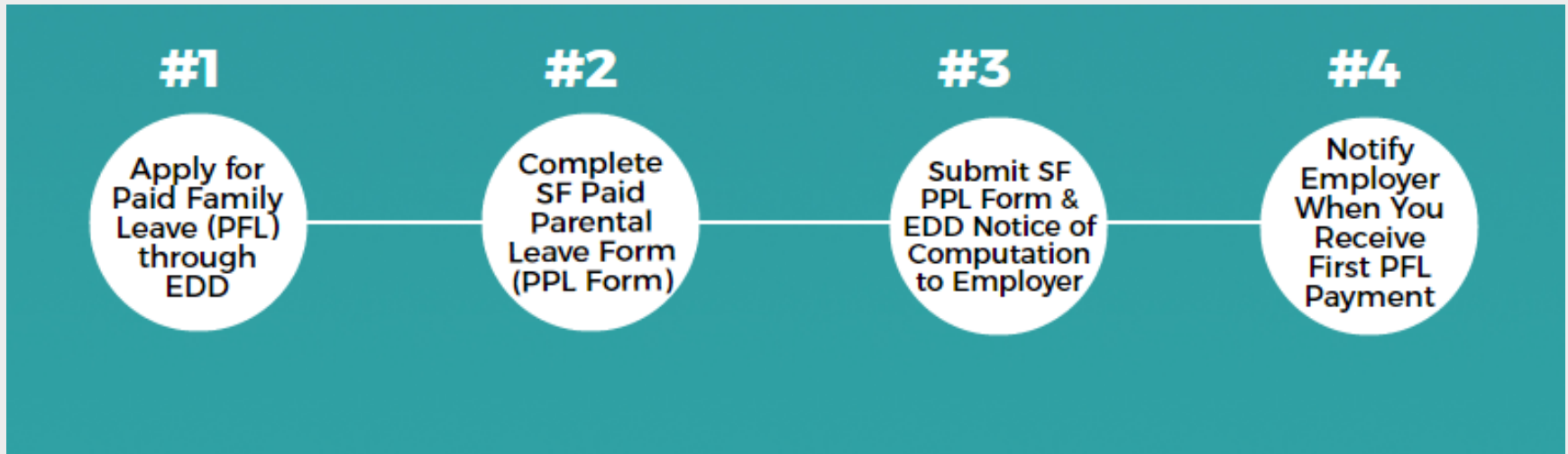
COVERED EMPLOYEE

1. Works in **San Francisco**
2. Commenced work for a covered employer at least **180 days** before leave period
3. Work at least **8 hours per week in San Francisco** for a covered employer
4. Work in San Francisco at least **40% of weekly hours** for your covered employer
5. Apply for and receive California **Paid Family Leave (PFL)** benefits from the Employment Development Department (EDD)

Government employees are not covered.



4 STEPS TO APPLY FOR SF PAID PARENTAL LEAVE



More Detailed Step-by-Step Guide Available on [OLSE Website](#) Shortly!



SAN FRANCISCO PAID PARENTAL LEAVE FORM (SF PPL FORM)

CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE, MAYOR

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF LABOR STANDARDS ENFORCEMENT
PATRICK MULLIGAN, DIRECTOR



SAN FRANCISCO PAID PARENTAL LEAVE FORM

Complete one form for each employer. If you have only one employer, you only need to complete Sections 1, 2, and 3 of this form. If you have more than one employer, fill out Section 4 on page 2.

Section 1. Employment Information

Employee

Name/Address:

(Please print) Street City State Zip

Employer:

(Name)

Section 2. Employer Notification. For prompt payment of benefits, select both options. Check all that apply:

Option 1. ☐ I am submitting a copy of my EDD Notice of Computation to my employer(s); and/ or

Option 2. ☐ I have checked the box on my EDD Claim for Paid Family Leave (DE 2501F) granting permission to disclose my benefit payment to my employer(s).

Section 3. Reimbursement Agreement. In order to receive Supplemental Compensation under the San Francisco Paid Parental Leave Ordinance (PPLO), employees must agree in writing to reimburse their employers if they voluntarily separate from employment within 90 days of the end of their leave period. Failure to sign this agreement renders you ineligible to receive Supplemental Compensation under the PPLO. [See S.F. Police Code Sec. 3300H.4(e).]

I, _____ [full name], hereby agree to reimburse the full amount of Supplemental Compensation received from any Covered Employer(s) under the San Francisco Paid Parental Leave Ordinance if I voluntarily separate from employment within 90 days from the end of my leave period and if my employer requests such reimbursement in writing.

Employee Signature: _____ Date: _____

Employer Signature: _____ Date: _____

If you only have one employer, this form is complete.

Only complete Section 4 if you have more than one employer

Section 4. Multiple Employers. If you have more than one employer, you must complete either Option A or Option B of this section, or your employers will not be required to provide Supplemental Compensation under the PPLO.

Option A: Ask each employer for your normal gross weekly wages and reported tips, if any, and enter the amount in the grid for each employer:

| Employer | Normal Gross Weekly Wages | Average Weekly Tips |
|----------|---------------------------|---------------------|
| 1 | | |
| 2 | | |
| 3 | | |

Option B: For each employer, fill in your pre-tax earnings below. Include information for the 6 bi-weekly, 6 semi-monthly or 12 weekly pay periods that immediately precede your leave period. If you were on unpaid or partially paid leave for any of those pay periods, do not include those pay periods in the grid. Instead, include earlier pay periods during which you were fully paid. Provide 6 total – or 12 total – in the chart for each employer.

| Employer 1 | | | | Employer 2 | | | | Employer 3 | | | |
|------------|------------|-------|------|------------|------------|-------|------|------------|------------|-------|------|
| Pay Period | Start Date | Wages | Tips | Pay Period | Start Date | Wages | Tips | Pay Period | Start Date | Wages | Tips |
| 1 | | | | 1 | | | | 1 | | | |
| 2 | | | | 2 | | | | 2 | | | |
| 3 | | | | 3 | | | | 3 | | | |
| 4 | | | | 4 | | | | 4 | | | |
| 5 | | | | 5 | | | | 5 | | | |
| 6 | | | | 6 | | | | 6 | | | |
| 7 | | | | 7 | | | | 7 | | | |
| 8 | | | | 8 | | | | 8 | | | |
| 9 | | | | 9 | | | | 9 | | | |
| 10 | | | | 10 | | | | 10 | | | |
| 11 | | | | 11 | | | | 11 | | | |
| 12 | | | | 12 | | | | 12 | | | |

I declare under penalty of perjury that the foregoing wage and employer information is true and correct.

Employee Signature: _____ Date: _____

Your employer has the right to request proof of wages from other employers listed above.

SUBMIT A COMPLETED FORM TO EACH OF YOUR EMPLOYERS

[Dec 2016 REV]

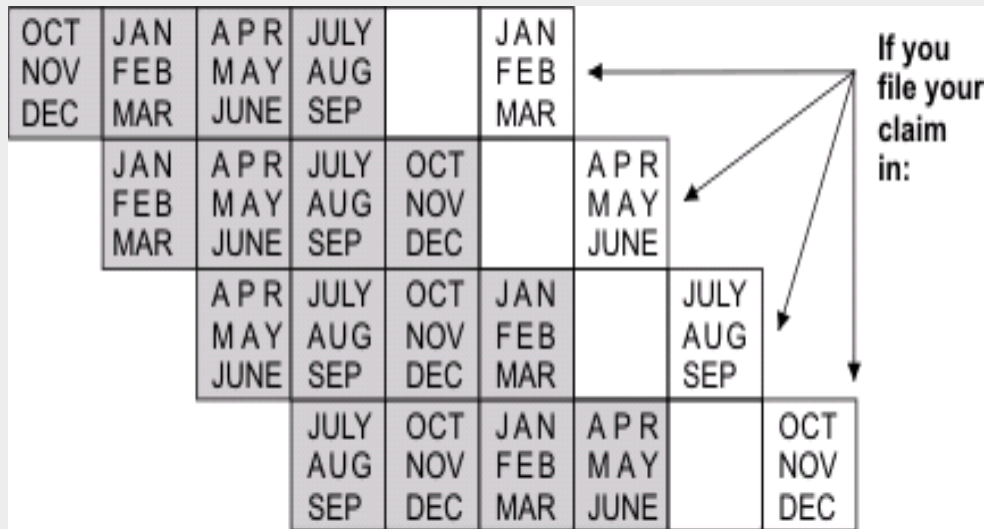
PAID FAMILY LEAVE (PFL)



- Employee Funded State Benefit
- **6 WEEKS** OF PARTIAL WAGE REPLACEMENT WHILE:
 - ✓ Caring for a seriously ill close family member; or
 - ✓ **bonding with a newborn, adopted or foster child**
- **55%** of weekly wage, up to \$1,173 per week in 2017
- Benefit increases to **60%** or **70%**, depending on income, in **2018**
- ***Both Parents Can Take at the Same (or different) Time***
- Can be taken **Intermittently** or all at once
- ***Must be taken within 1 year of birth or placement of child in the home***
- One week waiting period
 - Not for birth mothers transitioning from State Disability Insurance (SDI) to PFL
 - Eliminated in 2018

PAID FAMILY LEAVE: EMPLOYEE'S EDD BASE PERIOD

How EDD Determines an Employee's Base Period



- Employee's PFL benefit amount not based on current wages, but on employee's **"Base Period"** wages.
- A **"Base Period"** covers 12 months and is divided into four consecutive quarters.
- Employee's PFL benefit amount based on his/her highest quarter of earnings in the base period.
- Will not always equal 55% of current normal weekly wages**

Supplemental Compensation

- Sum of the **EDD PFL benefit** and the **Supplemental Compensation equals 100% of normal gross weekly wages**
- Employee's total weekly benefits (EDD + Supplemental Compensation) are capped at **\$2,133 for 2017**
- Employers may require employee to agree to use up to **2 weeks** of accrued, unused **vacation** to cover the cost of the required Supplemental Compensation payments (3300H.4(b)(5)) *If the employee does not agree, then employer is not required to pay Supplemental Compensation.
- Must be **paid in full** within 30 days of end of leave for employee who meets preconditions before or during leave (Rules 5 and 6)
- **Sick leave** may not be used to cover Supplemental Compensation.
- Comes from **EMPLOYER(s)**, not City and County of San Francisco.

Supplemental Compensation Calculation Terms

- Employment Development Department (EDD) Weekly Benefit: amount paid to employee by EDD
 - Weekly benefit amount is calculated based on the employee's weekly wages in the EDD base period - 5 to 18 months in the past (see EDD Chart on slide 12)
- Paid Parental Leave Ordinance (PPLO) Normal Weekly Wages
 - Employee's salary during the week prior to leave; or
 - If weekly wages fluctuate (increase and decrease), then average of PPLO Lookback Period wages (3300H4.(b)1(B))
- Notice of Computation: EDD notice sent to employee that includes weekly benefit amount

Where is the EDD Weekly Benefit Amount?

Sample EDD Notice of Computation

EDD PAID FAMILY LEAVE
P O BOX 997017
SACRAMENTO, CA 95899-7017
Telephone No. 877-238-4373

EDD Employment Development Department
State of California

—NOTICE OF COMPUTATION—
This notice does not establish your right to benefits. State Disability Insurance or Paid Family Leave benefits are paid to you only when you meet all the conditions of eligibility.

Your Social Security Number: _____

00783 ALL BENEFIT PAYMENTS, IF DUE ARE ISSUED SEPARATELY.

----- NOTICE OF COMPUTATION -----

-----> Your maximum Benefit amount is \$ 5,772.00
Your weekly Benefit amount is \$ 962.00
Your daily Benefit amount is \$ 137.42
Your claim effective date is 01/03/17
The mailing date of this Notice is 01/18/17

PROGRAM X

| YOUR NAME | YOUR WAGES BY QUARTER ENDING | | | | YOUR EMPLOYERS | | | |
|-----------|------------------------------|-----------|------------|------------|----------------|----------|-----|----|
| | DEC 15 | MAR 16 | JUNE 16 | SEPT 16 | NAME | ACCT NO | BR | TC |
| | 11463.52 S | 9668.88 S | 13361.19 S | 22727.08 S | | 00000000 | 000 | 01 |
| | .00 | .00 | .00 | .00 | | 00000000 | 000 | 03 |
| QTR TOTAL | 11463.52 | 9668.88 | 13361.19 | 22727.08 | TOTAL WAGES = | 57220.67 | | |

Notice of Computation contains:

- Weekly benefit amount = \$962
- Daily benefit amount for a 7 day week
- Quarterly, qualified wages

Electronic Benefit Payment Notice contains:

- Pay period(s) and amount
- See Rule 5.2

Calculation Example 1

Basic Calculation $B - A = C$

EDD Base Period Weekly Wage (A) = \$1,000

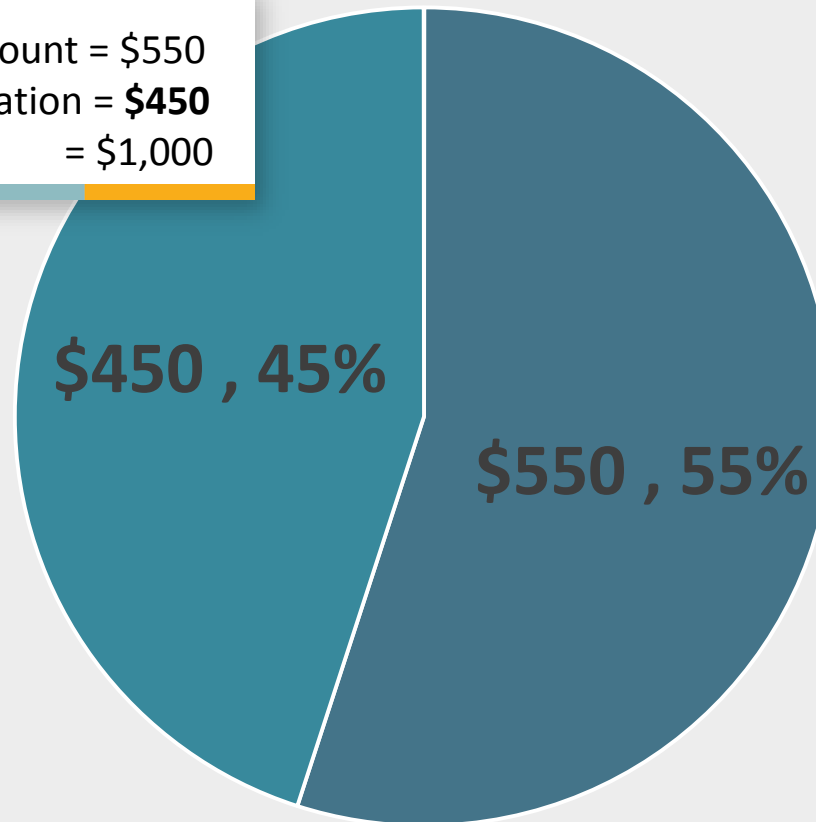
PPLO Normal Weekly Wage (B) = \$1,000

| | |
|--------------------------------------|----------------|
| (B) Normal Weekly Wage | \$1,000 |
| (A) EDD Weekly Benefit | <u>- \$550</u> |
| (C) Weekly Supplemental Compensation | \$450 |

$\$450 \times 6 \text{ Weeks} = \mathbf{\$2,700}$ (total amount employer must pay to employee)

Calculation 1 Weekly Chart

EDD Weekly Benefit Amount = \$550
Supplemental Compensation = **\$450**
Total Benefit = \$1,000



■ EDD
■ Employer

Calculation Example 2

Basic Calculation $B - A = C$

EDD Base Period Weekly Wage (A) = \$1,000

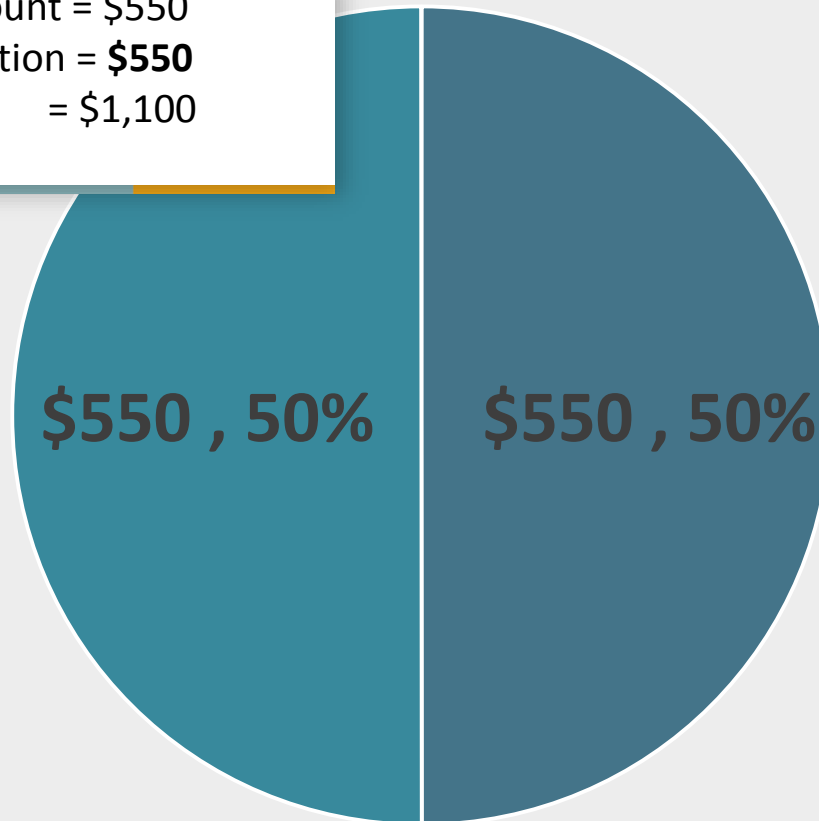
PPLO Normal Weekly Wage (B) = \$1,100

| | |
|--------------------------------------|----------------|
| (B) Normal Weekly Wage | \$1,100 |
| (A) EDD Weekly Benefit | <u>- \$550</u> |
| (C) Weekly Supplemental Compensation | \$550 |

$\$550 \times 6 \text{ weeks} = \mathbf{\$3,300}$ (total amount employer must pay to employee)

Calculation 2 Weekly Chart

EDD Weekly Benefit Amount = \$550
Supplemental Compensation = **\$550**
Total Benefit = \$1,100



■ EDD
■ Employer

Calculation Example 3

Basic Calculation $B - A = C$

EDD Base Period Weekly Wage (A) = \$1,000

PPLO Normal Weekly Wage (B) = \$1,100

| | |
|--------------------------------------|----------------|
| (B) Normal Weekly Wage | \$1,100 |
| (A) EDD Weekly Benefit | <u>- \$550</u> |
| (C) Weekly Supplemental Compensation | \$550 |

$\$550 \times 6 \text{ weeks} = \mathbf{\$3,300}$ (total amount employer must pay to employee)

$\$2,200 = 2 \text{ weeks}$ **vacation** value (if available and employee agrees)

$\$3,300 - \$2,200 = \$1,100$ or actual **cost to employer** after vacation value

$\$2,200 \text{ (vacation value)} \div \$550 \text{ (weekly amount)} = \mathbf{4 \text{ weeks}}$ of
Supplemental Compensation covered by vacation value

Calculation 3 Example Sources of Funds = \$1,100 Weekly

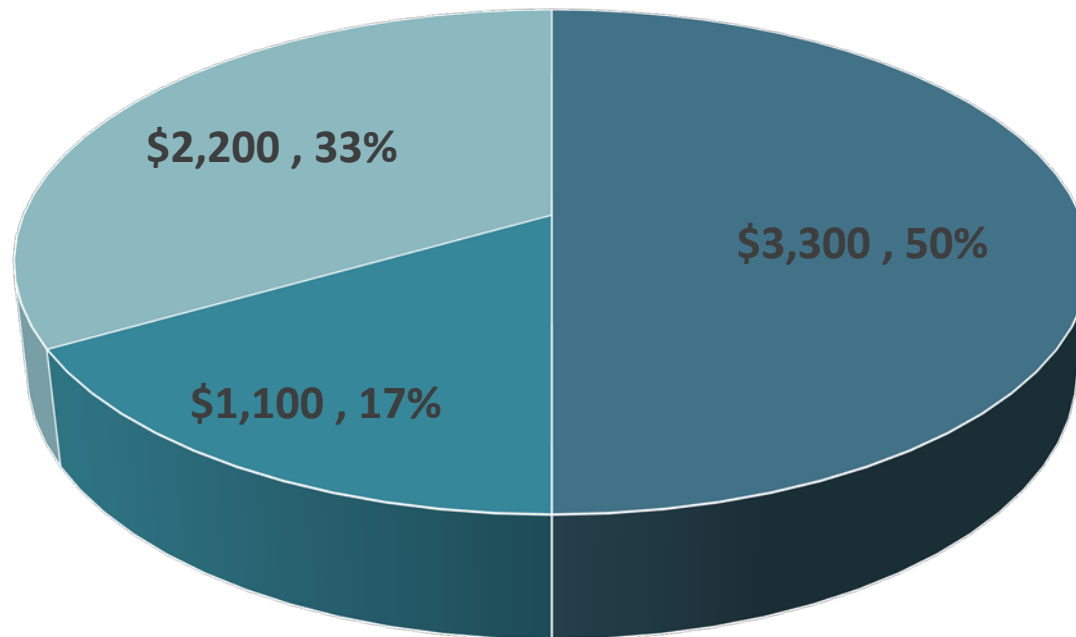
Two Weeks of Vacation Value Integrated with EDD Wage Replacement



■ EDD ■ Employer ■ Vacation

Supplemental Compensation Sources - Six Weeks

6 Weeks of Supplemental Compensation Totals by Source



Supplemental Compensation Notes

- Maximum benefit under the Ordinance (EDD Benefit + Supplemental Compensation) is \$2,133 for 2017 (3300H.4(b)(2))
 - Maximum Weekly EDD Benefit for 2017 is \$1,173
 - Employers may always pay more than the ordinance requires
- Calculation instructions available here:
<http://sfgov.org/olse/paid-parental-leave-calculations>
- Retain records of supplemental compensation paid as directed by 3300H.6

INTERACTION WITH FEDERAL AND STATE LAW: **FAMILY MEDICAL LEAVE ACT (FMLA)** **CALIFORNIA FAMILY RIGHTS ACT (CFRA)**



12 weeks of job-protected leave to:

- Bond with a new child (including adoptive and foster children)
- Care for a family member with a serious health condition
- For your own serious health condition

Eligibility

- **1 year on the job**
- **50+ employees**
- **1,250 hours in the prior year**

***For birth mothers, bonding leave does not start until after they have recovered from pregnancy disability.**

Interaction of Job-Protected Leave and Paid Parental Leave (PPL) Ordinance for Non-Birth Parents

FMLA/CFRA and PPL Eligible Workers:



PFL/PPL Supplemental Compensation

6 weeks

12 weeks of job-protected time off and health insurance



FMLA/CFRA

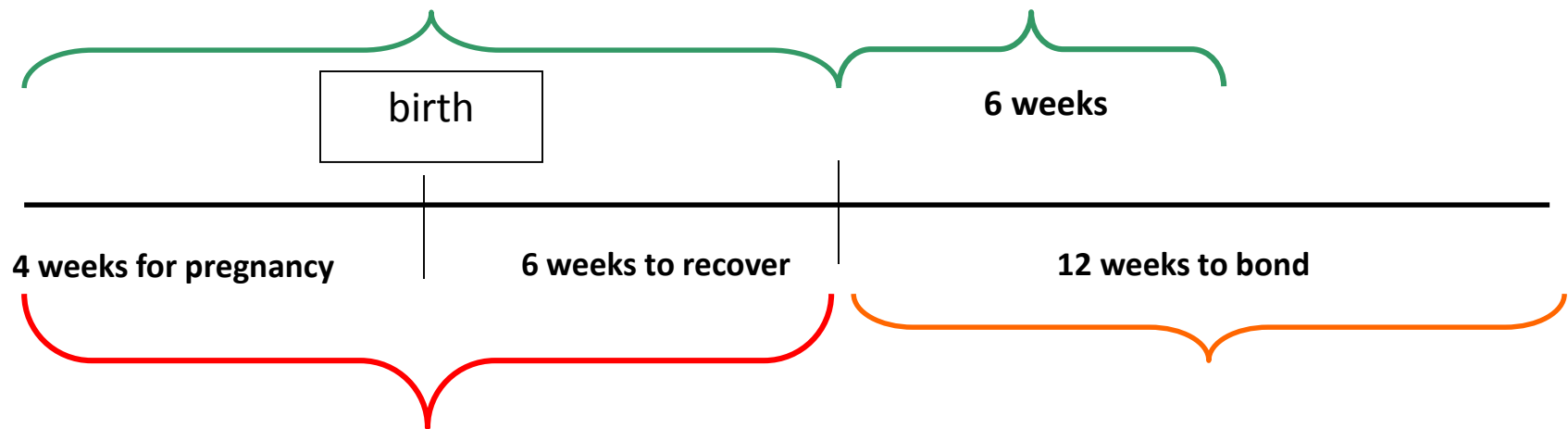
Interaction of Job-Protected Leave and PPL Supplemental Compensation for Birth Mothers

FMLA/CFRA and PPL Eligible Workers:



SDI

PFL/PPL Supp. Comp.



FMLA (12 wks)/**PDL** (4 mo)

CFRA

WHAT IF MY EMPLOYEE DOES NOT QUALIFY FOR FMLA/CFRA?

- **No Retaliation Under Ordinance:**

Although the PPLO does not explicitly require employer to provide an employee with 6 weeks off to bond with a new child, it contains very robust anti-retaliation provisions, which prohibit retaliating against an employee for exercising any of his/her rights under the ordinance.

- **Employer Must Still Pay Supplemental Compensation:**

If an employer terminates an employee during his/her leave period or within 90 days of notifying employer of intent to apply for /use PFL, employer must still pay employee Supplemental Compensation for his/her entire leave.

ANTI-RETALIATION

SECTION 3300H.7

- It is **unlawful** for an employer to “**interfere with, restrain, or deny the exercise of or the attempt to exercise**” right to Supplemental Compensation
- It is **unlawful** for an employer to “**discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any person in retaliation for exercising rights to Supplemental Compensation**” under the PPLO.
- Taking “**adverse action**” against employee within **90 days** of filing a complaint with OLSE or a court alleging violation creates a **rebuttable presumption** that such action was retaliation

Existing Paid Parental Leave Policy – Does it Comply?

Maybe. Existing Plans MUST:

- Provide 6 weeks of fully paid parental leave for bonding in any 12 month period
- Be available for any covered employee
- Can be integrated with EDD wage replacement benefits or be fully funded by the employer
- Allow employee to choose to take the leave consecutively or intermittently

QUESTIONS?

Use the Q & A panel on the right side of the screen to type a question to the Host and Presenters.

Please remember that this webinar is being recorded.

CONTACT FOR MORE INFORMATION

<http://sfgov.org/olse/paid-parental-leave-ordinance>

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Legal Aid at Work
www.legalaidatwork.org
Work & Family Helpline
1-800-880-8047
(English, Spanish, Chinese)