



San Francisco COVID-Related Employment Protections Ordinance
Implementation Guidance

September 11, 2020

The COVID-Related Employment Protections Ordinance (“Ordinance”) protects employees and certain independent contractors from adverse action for specified reasons related to COVID-19. The San Francisco Office of Labor Standards Enforcement administers and enforces the Ordinance’s protections.

Effective Date

1. Q: What are the effective dates of the Ordinance?

A: The COVID-Related Employment Protections Ordinance took effect on September 11, 2020. As an emergency ordinance, it will expire on November 10, 2020 unless reenacted by the Board of Supervisors.

Scope of Ordinance

2. Q: Which employers are covered by the Ordinance?

A: Any person, as defined in Section 18 of the California Labor Code, who employs, contracts with, or hires a Worker to perform work within the geographic boundaries of San Francisco, including through a temporary services or staffing agency or similar entity, is covered by the Ordinance. The City and County of San Francisco is defined as an employer.

3. Q: Does the Ordinance cover private sector employers at the San Francisco International Airport (SFO)?

A: No. The Ordinance covers work performed within the geographic boundaries of San Francisco, which does not include SFO.

4. Q: Does the Ordinance cover private sector employers at the Presidio?

A: No. The Ordinance does not cover private businesses located in “federal enclaves” such as the Presidio, Fort Mason, and the Golden Gate National Recreation Area (GGNRA).

5. Q: Does the Ordinance cover undocumented Workers and Applicants?

A: Yes. All Workers and Applicants in San Francisco – whether or not they are legally authorized to work in the United States – are covered by the Ordinance. OLSE will process claims without regard to the person’s immigration status, and will never ask questions about immigration status.

Worker Protections

6. Q: Who is covered by the Ordinance’s worker protections?

A: Both employees and certain independent contractors that provide labor or services for pay in San Francisco are covered by the Ordinance:

- (1) Employees, as defined under California Labor Code Section 2750.3, including part-time and temporary employees; and
- (2) Independent contractors or other persons who have personally performed at least 16 hours of labor or services for the employer, based on the intellectual or manual efforts of the individual rather than the sale of a product.

7. Q: What protections are afforded to Workers under the Ordinance?

A: Employers may not take any adverse action (e.g., fire, threaten to fire, discipline) or in any manner discriminate against a Worker who is absent from or unable to work, or who requests time off work, because the Worker tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure.

Additionally, Employers may not take any adverse action against a Worker because the Worker tested positive for or is perceived to have been infected with COVID-19.

These Worker protections exist whether or not the Worker is eligible to take paid or unpaid leave under any employer benefit program or any other local, state, or federal protection.

8. Q: Does the Ordinance protect Workers who are absent from work to care for a family member?

A: No. The Ordinance does not afford protections to Workers who are absent from or unable to work, or who request time off work, to care for a family member affected by COVID-19. Note, however, that if the Worker is unable to work, or requests time off work, because the Worker must quarantine due to COVID-19 exposure from the family

member, the Ordinance protects the Worker whether or not the Worker is caring for the family member.

Additionally, note that a number of federal, state, and local laws, including the San Francisco Paid Sick Leave and Public Health Emergency Leave ordinances, do provide anti-retaliation protections to Employees that take leave under those laws to care for family members.

9. Q: How does the Ordinance affect employers' absence control policies?

A: Employers may not count a Worker's absence from or inability to work because the Worker tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure as an absence that may lead to or result in any adverse action (e.g., fire, discipline, suspension). These Worker protections exist whether or not the Worker is eligible to take paid or unpaid leave.

10. Q: What verification may employers require?

A: Employers may require a Worker to identify the general basis for the Worker's absence from or inability to work, or the Worker's request to take time off work, but may not require the disclosure of health information or other documentation (including but not limited to a doctor's note).

11. Q: What precautions should employers take when Workers seek to return to work?

A: Employers should not allow a Worker who is experiencing any symptom of COVID-19, or who has a confirmed COVID-19 infection, to return to work on-site until the standards of the Local Health Officer's [return-to-work guidance](#) and [letter to employers](#) are met.

Applicant Protections

12. Q: Can an employer decline to hire or contract with an Applicant because they tested positive for COVID-19, or are isolating or quarantining?

A: No. Employers may not rescind an offer to employ or contract with an Applicant, or make a decision to employ or contract with an Applicant, based on whether the Applicant tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure.

13. Q: What should an employer do if an Applicant is unable to start work because they tested positive for COVID-19, or are isolating or quarantining?

A: If an Applicant is unable to start work because they tested positive for COVID-19 or is isolating or quarantining due to COVID-19 symptoms or exposure, the employer must

reasonably accommodate the Applicant by scheduling a later start date where reasonably feasible.

Please email further questions to cepo@sfgov.org or call (415) 554-6077