San Francisco Labor Law Workshop
May 15th, 2018
Part 1: City Contracting Laws
Minimum Compensation Ordinance (MCO)

Beverly Popek
Compliance Officer
MCO

Wages and Paid Time Off (PTO)
MCO

Who needs to comply?
A company that has:
• A City Contract with an MCO Requirement/Provision
• 5 employees or greater, anywhere in the world. Includes subcontractors.
MCO

Which employees are covered under the MCO?

An employee NOT covered under Prevailing Wage. Usually non construction workers/positions.

Common Examples:
• Clerical/administrative staff
• Construction Managers and Project Managers
• Architects, Engineers, Designers, Outreach Specialists, Nurses, Accountants, Trainers, other professional services...
MCO

Wage Requirement:
Any employee who works at least 4 hours a week on a City contract for services:

• Pay at least the MCO Wage
  • For-profit $14.02 per hour worked. Possible rate increase effective July 1
  • Non-profit at least SF Minimum Wage - $14.00 per hour. Effective July 1, $15.00 per hour

Office of Labor Standards Enforcement
MCO

Time Off Requirements

Paid Time Off

0.04615 hours of Paid Time Off (PTO) per hour worked

• PTO can be used as vacation or sick leave.
• Must be vested and cashed out at termination
MCO

Time Off Requirements

Unpaid Time Off

0.0392 hours of **unpaid time off** allowed

- Allowed for sick leave for the covered employee, covered employee’s spouse, domestic partner, child, parent, sibling, grandparent or grandchild.
- It is possible that your company may already have an unpaid leave policy that is in compliance with the unpaid time off requirements of the MCO.
MCO - Other Requirements

• Annual Posters
• Annual HCAO Know Your Rights Forms
• All posters and forms are on our website: www.sfgov.org/olse/hcao
MCO Common Violations/Misconceptions Employers Make

- Employer does not think that they have to comply because workers are not working in San Francisco
- Employer does not think they have to comply because the company is headquartered outside of San Francisco, CA
- Employer thinks that PTO and Sick Time are the same thing
- Employer thinks that by complying with SF Paid Sick Leave they are in compliance with the MCO
For More Information about MCO

MCO: www.sfgov.org/olse/mco

OLSE: www.sfgov.org/olse

Beverly Popek, Compliance Officer
415-554-6238
beverly.popek@sfgov.org
Health Care Accountability Ordinance (HCAO) 12Q
HCAO

Covered Employer:
A company that has:

• An City Contract with an HCAO Requirement/Provision
• 20 or more employees, anywhere in the world.

Keep in Mind:
It doesn’t matter where the company has it’s headquarters
HCAO

Which employees are covered under the HCAO?

• If an employee is NOT covered under Prevailing Wage.

• Same workers/examples in MCO

• Usually non construction workers/positions.
HCAO

Covered Employee:
• Anyone who works at least 20 hours a week or more on a City Contract for services.

Keep in Mind:
• A worker is covered if they are performing work anywhere in the US
• Work hours that fluctuate from week to week are Covered Employees if the average number of hours per week during applicable month is 20 hours or more.
HCAO Requirements 1/3

Employer must choose **one** option.

Option 1

Offer each covered employee a compliant health plan at no charge to the employee - no later than the first of the month after 30 days.
HCAO Requirements – 2/3

Option 2

Pay $4.95 per employee per hour to SF General Hospital

- Rate adjusted every July 1 – Effective July 1, 2018 - $5.15 per hour
- Fee goes to SF General Hospital – not a benefit or $ for worker (this is NOT Healthy San Francisco)
HCAO Requirements – 3/3

*Option 3*

Pay an additional $4.95 per hour directly to employee (only available to employees NOT working in SF and SFO).
HCAO - Other Requirements

• Annual Posters
• Annual HCAO Know Your Rights Forms
• HCAO Fee Payment Form on website: www.sfgov.org/olse/hcao
• All posters and forms are on our website: www.sfgov.org/olse/hcao
HCAO Common Violations/Misconceptions Employers Make

- Employer does not think that they have to comply because workers are not working in San Francisco
- Employer does not think they have to comply because the company is headquartered outside of San Francisco, CA
- Health Plan is not compliant per HCAO Minimum Standards
For More Information about HCAO

HCAO:  [www.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao)

OLSE:  [www.sfgov.org/olse](http://www.sfgov.org/olse)

Beverly Popek, Compliance Officer
415-554-6238
beverly.popek@sfgov.org
Prevailing Wage Provisions Specific to the City and County of San Francisco

Anna Liu
Compliance Officer
What is prevailing wage?

Traditional prevailing wage is the highest total hourly wages and benefits paid on public works projects for a particular craft, classification, or type of construction work.

Basic Hourly Wage
(Including Overtime and Holiday Pay)

Benefits
(Pension, Vacation, Health & Welfare, Training, etc.)

Total Hourly Rate
What is public works?

Public works refers to infrastructure projects paid for wholly or partly from public funds

Federally-funded (Davis Bacon)
- Federal Building at 7th & Market

State-funded (DIR’s WD*)
- Bay Bridge Rebuild

San Francisco-funded (Chapter 6)
- Bus Rapid Transit (BRT)

Other Government Agency-funded
- Golden Gate Bridge Suicide Deterrent Net System

Office of Labor Standards Enforcement
What is Chapter 6?

• Governs public work or improvement contracting policies and procedures in the City

• Construction work only

• Chapter 6 departments include:
  1. Municipal Transportation Agency (MTA)
  2. Airport (SFO)
  3. Public Utilities Commission (PUC)
  4. Recreation and Parks Commission
  5. San Francisco Public Works (DPW)
  6. Port of San Francisco
S.F. Administrative Code Chapter 21C

- Establishes 10 prevailing wage classifications for work that is
  - Not recognized by the California Department of Industrial Relations (DIR)
  - Not public works
  - Non-construction related

- May apply to San Francisco service contracts, leases, agreements, and permits
How is prevailing wage determined under Ch. 21C?

OLSE surveys CBAs for current wage rate and benefits

Civil Service Commission (CSC) approves wage data from OLSE

BOS considers CSC’s data and other evidence

BOS adopts the CSC’s recommendation and approves the PW rate set for certain work performed under 21C
10 Categories of Work Under 21C

- Motor Bus Services (21C.1) 1999
- Janitorial Services (21C.2) 1999
- Work at Parking Lots and Garages (21C.3) 2003
- Theatrical Services (21C.4) 2004
- Solid Waste Hauling (21C.5) 2006
- Moving Services (21C.6) 2004
- Trade Show/Special Event Work (21C.8) 2014
- Broadcast Services (21C.9) 2016
- Loading/Unloading (21C.10) 2016
- Security Guard Services (21C.11) 2016
21C.1 – Motor Bus Services

Date prevailing wage rate was established: 2/1/2018

- **Covered workers:** Privately employed bus drivers on City contracts

- **Current total hourly rate including fringes (for Double Decker Bus):** $34.00 per hour
21C.2 – Janitorial Services

Date prevailing wage rate was established: 1/16/2004

• Covered workers: Janitors working at any facility owned or leased by the City

• Current total hourly rate including fringes (for >4,850 hours): $24.88 per hour

• Monthly payment of $1,406.55 for health and welfare applies when employee works a minimum of 90 hours in previous month
21C.2 – Window Cleaners

Date prevailing wage rate was established: 12/13/2007

- **Covered workers:** Professional window cleaners working under a City contract at any facility owned or leased by the City

- **Current total hourly rate including fringes (for Leadman Base) is $30.44 per hour**

- **Monthly payment of $1,440.05 for health and welfare applies when employee works a minimum of 75 hours in previous month**
21C.3 – Work in Parking Lots and Garages

Date prevailing wage rate was established: 6/20/2003

- **Covered workers**: Parking attendants working in public off-street parking garages or lots that are owned or leased by the City

- **Current total hourly rate including fringes (for Parking Attendant Journeyman)**: $28.59 per hour

- **Monthly payment of $1,109.05 for health and welfare applies when employee works a minimum of 96 hours in previous month**
21C.4 – Theatrical Services

Date prevailing wage rate was established: 9/30/2004

• **Covered workers:** Stagehands and theatrical technicians working on the presentation of a show held on City property

• **Current total hourly rate including fringes (for General AV Technician):** $51.65 per hour
21C.5 – Solid Waste Hauling
Date prevailing wage rate was established: 3/9/2007

- **Covered workers:** Garbage collectors and drivers performing work in the hauling of solid waste generated by the City

- **Current total hourly rate including fringes (for Commercial Driver/Route Leadperson):** $76.81 per hour
21C.6 – Moving Services

Date prevailing wage rate was established: 12/14/2004

- **Covered workers:** Movers working at City-owned or leased facilities

- **Current total hourly rate including fringes (for Mover/Packer/Crater):** $33.18 per hour
21C.7 – Worker Retention

- **Ordinance effective date:** 1/24/2012
- **Who is covered?** Previous contractor’s employees with at least 15 hours/wk
- **Requirements:**
  - Retain employee for a six-month transition employment period
  - If employee’s performance during the six-month period is satisfactory, then successor contractor shall offer employee continued employment
21C.8 – Trade Show and Special Event Work

Date prevailing wage rate was established: 6/18/2015

• **Covered workers:** Individuals engaged in exhibit, display, or trade show work at a special event under a contract, lease, franchise, or permit issued by the City for the use of property owned by the City

• **Current total hourly rate including fringes (for Installer Leadperson):** $68.03 per hour
21C.9 – Broadcast Services

Date prevailing wage rate was established: 2/10/2017

- **Covered workers:** Broadcasters working on commercial productions on City property

- **Current total daily rate including fringes (for Audio Mixer with 10 hours minimum call):** $813.91 per day
21C.10 – Loading and Unloading

Date prevailing wage rate was established: 2/24/2017

- **Covered workers**: Individuals engaged in loading or unloading or driving a commercial vehicle on City property in connection with the presentation of a show or special event

- **Current total hourly rate including fringes (for Forklift Operator)**: $61.36 per hour
21C.11 – Security Guard Services

Date prevailing wage rate was established: 6/2/2017

- **Covered workers**: Security guards working on any property owned or leased by the City

- **Current total hourly rate including fringes (for Security Officer at 90 days)**: $18.39 per hour
OLSE Prevailing Wage
Contact Information

(415) 554-OLSE (6573)
www.sfgov.org/olse/prevailing-wage
San Francisco Fair Chance Ordinance

- Signed by Mayor Lee in February 2014
- Regulates use of arrest and conviction records
- Applies to employment & City-funded affordable housing
- Operative on August 13, 2014
- Amendment passed in April 2018 becomes operative October 1, 2018

- OLSE enforces employment sections
- The San Francisco Human Rights Commission (HRC) enforces housing components
“Ban the Box” Laws

• 70 million (nearly 1 in 3) adults in the U.S. have arrests or convictions on their record

• Employment is the #1 factor affecting return to criminal justice system

• 29 states and 150 cities and counties now have Ban the Box laws
Who is Covered?

• Admin Code 12T: City Contractors
  • Any size & any employees (or planned positions) in SF
  • Any position where the employee works/will work at least 8 hours/week in SF

• Police Code Article 49: Employers Citywide
  • 5+ employees worldwide* & any employees (or planned positions) in SF
  • Any position where the employee works/will work at least 8 hours/week in SF

*as of Oct. 1, 2018
Applications

• Job applications cannot ask about the applicant’s history of arrests or convictions

• Employers cannot ask about, or inquire into, convictions or unresolved arrests until after a conditional offer of employment.
Background Check Prohibited Information

Seven categories of information may not be considered at any time:

1. an arrest not leading to a conviction (except unresolved arrests)
2. participation in a diversion or deferral of judgment program
3. a conviction that has been dismissed or expunged
4. a conviction in the juvenile justice system
5. a conviction that is more than 7 years old
6. an offense other than a felony or misdemeanor (i.e. traffic ticket)
7. Items that have been decriminalized (i.e. cannabis possession)
Background Check Procedures

When considering an applicant’s conviction history, the Employer must:

• provide the applicant with a copy of the **FCO Notice**
• give the applicant **7 days to respond** (corrections or evidence of rehabilitation/mitigating factors)
• consider only **Directly-Related Convictions**
• treat each applicant as an individual – **no automatic rejections**
Exceptions to Prohibited Information

Employers can consider all types of convictions and arrests for jobs supervising:

- Minors
- Dependent adults
- Persons 65 years or older

Employers can consider infractions (driving record) where driving is a significant part of the job.
State and Federal Preemptions

- Federal or State laws that require background checks for certain jobs **preempt** the FCO.
  - Example: financial services/insurance employees
New! California Fair Chance Act

• Governor Brown signed a statewide Fair Chance Act (AB 1008) in October 2017
• Takes effect January 1, 2018
• Similar to San Francisco law
• Employers in San Francisco are required to comply with the stronger provisions of each law
What the FCO Doesn’t Do:

• FCO does **NOT** require employers to give preference to, or hire an unqualified individual with an arrest or conviction record.

• FCO does **NOT** limit employers’ ability to choose the most qualified and appropriate candidate among the applicants.

• FCO does **NOT** require employers to conduct a background check.

• FCO does **NOT** prohibit employers from conducting a background check.
Common Violations

• Implying that no individuals with convictions will be hired on job announcements

• Not including a statement of FCO compliance on job announcements

• Asking about convictions on job applications

• Improper process for notifying applicants of records found/considered
  • Failing to provide a copy of the background check
  • Failing to provide 7 days for applicant to review and respond
FCO Contact Information

(415) 554-5192
fco@sfgov.org
www.sfgov.org/olse/fco
Consideration of Salary History Ordinance
Consideration of Salary History

• San Francisco Ordinance
  • Passed by the Board of Supervisors: July 11, 2017
  • Operative date: July 1, 2018
  • Covers City contractors and employers City-wide

• California Law – AB-168
  • Approved October 12, 2017
  • Took effect January 1, 2018
  • Similar to San Francisco Ordinance
Consideration of Salary History Requirements

• Employers may not ask about Salary History for job applicants

• An applicant may voluntarily and without prompting disclose their salary history

• Retaliation for not disclosing salary history is prohibited

• Employers may not release the Salary History of any current or former employee without written authorization from the employee*
Posting and Enforcement

• Employers must display a poster, available on OLSE’s website by July 1, 2018, that describes an employee’s rights under the ordinances

• OLSE will issues warnings through July 1, 2019 and then will apply penalties.
Contact Information

(415) 554-6469
SalaryHistory@sfgov.org
http://sfgov.org/olse/consideration-salary-history

Office of Labor Standards Enforcement
Question & Answer
Part 2: Citywide Laws
San Francisco Minimum Wage Ordinance

Linshao Chin
Compliance Officer, OLSE
San Francisco Minimum Wage Ordinance

• Adopted by San Francisco voters in November 2003, effective January 1, 2004

• On November 4, 2014, San Francisco voters passed Proposition J, establishing a schedule of increases to the minimum wage

• The minimum wage is currently at $14.00 per hour; it will increase on July 1, 2018 to $15.00 per hour

• Beginning July 1, 2019, and each year thereafter, the minimum wage will be indexed to inflation
Current Wage Rates

- **Federal Minimum Wage**
  $7.25 per hour

- **State Minimum Wage**
  $10.50 per hour for 25+ employees
  $10.00 per hour for less than 25

- **San Francisco Minimum Wage**
  $14.00 per hour
OLSE HOTLINE for Minimum Wage Questions

(415) 554-6292

mwo@sfgov.org

www.sfgov.org/olse/mwo
San Francisco
Paid Sick Leave Ordinance
San Francisco Paid Sick Leave Ordinance

• Adopted by SF voters in November 2006, effective February 5, 2007

• 1st paid sick leave law in the United States
State Legislation

• CA passed the Healthy Workplace Healthy Family Act of 2014 (AB 1522)

• SF voters passed Proposition E on the June 7, 2016 ballot, which amended the SF Paid Sick Leave Ordinance to parallel broader state law
Covered Employees

- All employees who perform work in San Francisco, including on a part time or temporary basis, accrue paid sick leave for those hours worked in the city, regardless of where their employer is located.
Use of Paid Sick Leave

• An employee may use paid sick leave when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis.

• Sick leave can also be used to aid or care for the following persons – child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person.

• Sick leave can be used by an employee who is a victim of domestic violence, sexual assault or stalking.
Accrual and Use of Paid Sick Leave

• Accrue 1 hour of PSL for every 30 hours worked
• Accrue PSL starting on day 1
• Use PSL hours after 90 days
• Caps on accrual:
  • 40 hours for employers with <10 employees
  • 72 hours for all other employers
• Caps are not annual, but “floating”
• Employers must notify employees of PSL accrued each pay period
• Employees can use any PSL accrued
Paid Sick Leave Questions

(415) 554-6271
psl@sfgov.org
www.sfgov.org/olse/pslo
Health Care Security Ordinance (HCSO)

Office of Labor Standards Enforcement (OLSE)
Bianca Polovina, Compliance Officer
HCSO History and Overview

• The HCSO was passed unanimously by the Board of Supervisors in July 2006 and implemented on January 1, 2008
• The HCSO requires covered employers to make health care expenditures (spend money) on behalf of covered employees for health care services
• The HCSO was amended in 2011 and 2014
• New Rules in effect October 29, 2017
Covered Employers

• Applies to any entity doing business in San Francisco
• Minimum size threshold based on total number of persons performing work in ALL locations throughout the world, not only San Francisco
  • For-profit employers: 20+ persons perform work per quarter
  • Nonprofit employers: 50+ persons perform work per quarter
Employer Obligations under the HCSO

1) Post official OLSE notices in all workplaces
   • Download notice from the OLSE website

2) Report health care expenditures to OLSE annually
   • Annual Reporting Form (ARF)

3) Maintain employment records and records of compliance
   • Time sheets, employee info, records of health care expenditures made

4) **Satisfy Employer Spending Requirement (ESR) for covered employees**
Employees Covered by the HCSO

• Employees employed for at least 90 calendar days at the company and work at least 8 hours per week (104 per quarter) in San Francisco

• **NOT COVERED** (Exempt from the HCSO)
  • Managers/Supervisors. Must satisfy (1) job duties test and (2) salary requirement of $97,722/yr (2018)
  • Medicare or TRICARE
  • Employees covered by the Health Care Accountability Ordinance (HCAO)
  • Employees who are receiving health care services *through another employer* and who voluntarily sign an HCSO Employee Waiver Form
OLSE Voluntary Waiver Form

Employees who opt out of insurance are still covered by the HCSO, so are entitled to health care expenditures unless they’re exempt from the law.

Employer may ask employee to sign a waiver if:

• Employee has insurance from another employer (2nd job, spouse’s employer, parent’s employer).
• Employee is willing to waive their right to alternative health care expenditures going forward (waivers cannot be signed retroactively)
OLSE Voluntary Waiver Form

If a waiver is signed:

• It is valid for one year only; the employer must continue to ask for signatures each year or the employee is automatically covered by the HCSO once the waiver expires;
• The employee can choose to revoke her signature at any time during that year;
• The employer must keep copies of the waiver form as part of the recordkeeping requirement.

Employee’s signature on forms from employers or third parties (ie, “opt-out” or “waiver” forms from insurance companies) are not accepted as HCSO waivers.

HCSO waiver form was updated November 1, 2017. Only use new version going forward. (available in multiple languages on OLSE website)
Employer Spending Requirement

• Health Care Expenditure Rates

<table>
<thead>
<tr>
<th>Employer Size</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>100+ Employees</td>
<td>$2.83/hr</td>
</tr>
<tr>
<td>20-99 Employees</td>
<td>$1.89/hr</td>
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</tbody>
</table>

• What this looks like for a FULL TIME employee:

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<thead>
<tr>
<th></th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Employer</td>
<td>$486.76/mo</td>
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<tr>
<td></td>
<td>$1,460.28/Q</td>
</tr>
<tr>
<td>Medium Employer</td>
<td>$302.72/mo</td>
</tr>
<tr>
<td></td>
<td>$908.16/Q</td>
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</tbody>
</table>

Office of Labor Standards Enforcement
Employer Spending Requirement

- Payable Hours x Health Care Expenditure (HCE) Rate = Amount To Spend Quarterly
- Payable hours includes hours worked and any hours a person is entitled to be paid wages, like sick leave, vacation, PTO
- Payable hours cap: 172 hours/month
- HCEs must be made 30 days after the end of the preceding quarter. Quarterly Deadlines:

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Deadline</th>
</tr>
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<tbody>
<tr>
<td>Q1</td>
<td>Apr. 30</td>
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<tr>
<td>Q2</td>
<td>July 30</td>
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<tr>
<td>Q3</td>
<td>Oct. 30</td>
</tr>
<tr>
<td>Q4</td>
<td>Jan. 30</td>
</tr>
</tbody>
</table>
Options to satisfy ESR:

- Provide health insurance:
  - medical, dental, and/or vision premiums
  - covered employees and/or their spouses, partners, children, or other dependents
- Contribute to SF City Option
- Contribute to a Health Savings Account, Medical Savings Account, or other irrevocable reimbursement account
- Combination of these options
Common Compliance Issues
Common Compliance Issues

- Failing to make any health care expenditures for anyone
- Spending too little for health insurance
- Disregarding part time workers who work 8+ hours/week and may not qualify for employer’s health insurance program
- Failing to make health care expenditures for employees with other health coverage
- Consistently late health care expenditures
- Surcharges
HCSO Best Practices for Employers

• Transparency and Communication with employees

• Well-trained staff in HR and benefits department

• Stay up to date: HCSO email list, website, webinars. Hotline available for individual technical assistance.
HCSO Compliance Checklist

- Expenditures for each covered employee are accounted for
- Employer spends sufficiently for each employee
- Expenditures are made on time (quarterly deadline)
- Employer reports health care spending to OLSE annually
- Employer keeps records of compliance
- Employer keeps HCSO notice posted for employees to see
HCSO Resources

HCSO@sfgov.org
(415) 554-7892
www.sfgov.org.olse/hcso
Family Friendly Workplace Ordinance

Ben Weber
Analyst, OLSE
FFWO Overview

• The FFWO grants workers the right to request flexible or predictable work arrangements to help with family caregiving obligations without fear of retaliation.

• Employers can deny requests, but only for bona fide business reasons that they explain in writing.
Caregiving

• Child or children for whom the employee has parental responsibility
• A person with a Serious Health Condition in a Family Relationship with the employee
• The employee’s parent, age 65 or older
FFWO: Right to a Process

1. Employee request
2. Employer meets with employee
3. Employer written response
   - 21 days
4. Employer grants request
5. Employer denies request – bona fide business reason
   - Employee may request reconsideration
   - 21 days
Paid Parental Leave Ordinance
What is the Paid Parental Leave Ordinance?

• Passed unanimously by Board of Supervisors on April 21, 2016

• First of its kind in the United States

• Requires employers to supplement an employee’s California Paid Family Leave (PFL) benefits

• Provides eligible employees working in San Francisco with 6 weeks fully paid leave to bond with a new child (newborn, adoptive, or foster)
Covered Employers

• Applies to employers worldwide with employee(s) in San Francisco

• **Employ Threshold Number of Employees:**
  • January 1, 2018 20+ employees worldwide

• An Employer with fluctuating workforce – number of employees goes up and down over time –should average employees over PPLO Lookback period 12 weeks 3 months

**Note:** Government entities are not covered employers
Covered Employers

- Applies to employers worldwide with employee(s) in San Francisco
- **Employ Threshold Number of Employees:**
  - **January 1, 2018** 20+ employees worldwide

- An Employer with fluctuating workforce – number of employees goes **up and** should average employees over PPLO Lookback period 12 weeks 3 months
4 Steps For Employers

#1
Give Notice to Employees

#2
Give Employee(s) SF Paid Parental Leave Form (SF PPL Form)

#3
Determine Employee's Eligibility

#4
Calculate & Pay Supplemental Compensation

More Detailed Step-by-Step Guide Available on OLSE Website

Office of Labor Standards Enforcement
4 Steps for Employees

1. Apply for CA Paid Family Leave (PFL) Benefits
2. Complete SF Paid Parental Leave Form (SF PPL Form)
3. Submit SF PPL Form & EDD Notice of Computation to Employer(s)
4. Notify Employer When You Receive First PFL Payment

More Detailed Step-by-Step Guide Available on OLSE Website
San Francisco Paid Parental Leave Form (SF PPL Form)

Gives Form to Employer, NOT the OLSE

Office of Labor Standards Enforcement
Understand which Job Protection Laws Apply

Family Medical Leave Act (FMLA)
California Family Rights Act (CFRA)
• Eligibility:
  o 1 year on the job
  o 50 + employees
  o 1,250 hours in the prior year

New Parent Leave Act (as of Jan. 1 2018)
• Eligibility:
  o 1 year on the job
  o 20 - 49 employees
  o 1,250 hours in the prior year

Office of Labor Standards Enforcement
Supplemental Compensation
Paid Parental Leave Ordinance Resources
Lactation in the Workplace
Lactation in the Workplace
Salary History

Legislative History

• The San Francisco Board of Supervisors unanimously passed the Lactation in the Workplace Ordinance in June 2017

• Amends the San Francisco Police Code and San Francisco Building Code, establishing local standards to complement State and Federal law

• January 1, 2018 operative date; beginning January 1, 2019, OLSE may issue determinations and impose administrative penalties
Covered Employers and Employees

• All employers – except for government entities – that have employees working in San Francisco are covered

• All employees working within the geographic boundaries of San Francisco, including part-time employees, are covered
Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

• Break time shall, if possible, run concurrently with any break time already provided to the employee

• Break time that does not run concurrently with the rest time authorized under State law may be unpaid
Employer Requirements – Lactation Location

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee’s work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a place to sit
  - Contains a surface
  - Has access to electricity
  - Contains a surface

- Employers must provide, in close proximity to the employee’s work area, access to a refrigerator and a sink with running water.

- Employers may designate a multi-purpose room as long as lactation takes priority.

- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own.
Contact Information:

• Lactation in the Workplace: 415-554-6406 and lactation@sfgov.org
• Public rules hearing on June 7, 2018 at ...
• http://sfgov.org/olse/lactation-workplace

Office of Labor Standards Enforcement
Question & Answer