



# **San Francisco Labor Law Workshop**

**May 15th, 2018**



# **Part 1:**

# **City Contracting Laws**

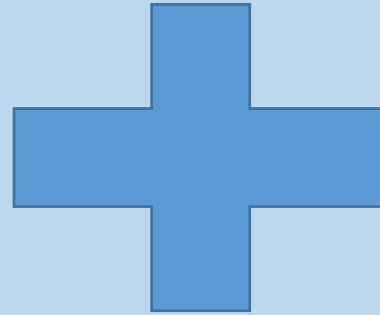


# **Minimum Compensation Ordinance (MCO)**

**Beverly Popek  
Compliance Officer**

# MCO

## Wages and Paid Time Off (PTO)



Office of Labor Standards Enforcement

# 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



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

CITY AND COUNTY OF SAN FRANCISCO  
GENERAL SERVICES AGENCY  
OFFICE OF LABOR STANDARDS ENFORCEMENT  
PATRICK MULLIGAN, DIRECTOR

EDWIN M. LEE, MAYOR

**Minimum Compensation Ordinance (MCO)**  
**KNOW YOUR RIGHTS**

This notice is intended to inform you of your rights under the Minimum Compensation Ordinance (MCO), Chapter 12P of the San Francisco Administrative Code. The MCO requires your employer to provide a prescribed minimum level of compensation be paid to employees of (1) contractors and their subcontractors providing services to the City and County; (2) public entities whose boundaries are coterminous with the City and County who have city contracts; and, (3) tenants and subtenants on Airport property and their subcontractors. The Office of Labor Standards Enforcement (OLSE) is charged with enforcing the MCO. You will be asked to sign this document after you have reviewed the following information. Do not sign this document unless you fully understand your rights under this law.

**THE MCO REQUIREMENTS**

- 1. Minimum Hourly Wage**
  - For contracts entered into on or after October 14, 2007 and existing contracts amended on or after that date, the rate for for-profit contractors is \$13.34/hour effective January 1, 2016. Nonprofit contractors must pay the San Francisco minimum wage (\$13.00/hour effective July 1, 2016).
  - For contracts entered into prior to October 14, 2007, the rate for work performed within the City of S.F. is the San Francisco minimum wage (\$13.00/hour effective July 1, 2016). The rate for work performed outside of S.F. is \$10.77/hour.
  - Rates are subject to change. Your employer is obligated to keep informed of the requirements and to notify employees in writing of any adjustment to the MCO wage.
- 2. Paid Days Off**
  - 12 paid days off per year for vacation, sick leave or personal necessity
  - The paid days off for part-time employees are prorated based on hours worked
- 3. Unpaid Days Off**
  - 10 unpaid days off per year
  - Unpaid days off for part-time employees are prorated based on hours worked
  - Temporary and casual employees are not eligible for unpaid time off

**RETALIATION PROHIBITED**  
Your employer may not retaliate against you or any other employee for trying to learn more about the MCO or exercising your rights under the law. If you believe that you have been discriminated or retaliated against for inquiring about or exercising your rights under the MCO, contact the OLSE at (415) 554-7903 to file a MCO complaint.

Do not sign this document unless you fully understand your rights under this law. If you have any questions about your employer's responsibilities or your rights under this Ordinance, contact the OLSE at (415) 554-7903 or visit [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco) for more information about this law.

Print Name of Employee: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Para asistencia en Español, llame al (415) 554-7903  
需要中文協助, 請電 (415) 554-7903

For a complete copy of the Minimum Compensation Ordinance, visit [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco).

SF OFFICE OF LABOR STANDARDS ENFORCEMENT, CITY HALL ROOM 430  
1 DR. CARLTON B. GOODLETT PLACE • SAN FRANCISCO, CA 94102

TEL (415) 554-6235 • FAX (415) 554-6291  
[WWW.SFGOV.ORG/OLSE](http://WWW.SFGOV.ORG/OLSE)



# 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](http://www.sfgov.org/olse/mco)

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

Beverly Popek, Compliance Officer

415-554-6238

[beverly.popek@sfgov.org](mailto: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.



**AT NO PREMIUM  
CHARGE (DEDUCTION)**



# 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](http://www.sfgov.org/olse/hcao)
- All posters and forms are on our website:  
[www.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao)

CITY AND COUNTY OF SAN FRANCISCO



EDWIN M. LEE  
MAYOR

**NOTICE TO EMPLOYEES**

**Health Care Accountability Ordinance**

This employer is a contractor with the City and County of San Francisco. This contract agreement is subject to the Health Care Accountability Ordinance (HCAO). The HCAO requires your employer to provide health plan benefits to covered employees, make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to employees. **If you work at least 20 hours per week on a City contract, you are a covered employee and your employer must choose one of the following options:**

1. **PROVIDE YOU WITH A HEALTH PLAN THAT MEETS THE MINIMUM STANDARDS OUTLINED BY THE DIRECTOR OF PUBLIC HEALTH**
  - Your employer cannot require you to contribute any amount towards the premiums for health plan coverage for yourself.
  - Coverage must begin no later than the first of the month that begins after 30 days from the start of employment on a covered contract.

OR

2. **PAY \$4.65 PER HOUR WORKED TO THE CITY & COUNTY OF SAN FRANCISCO**
  - If you live within the City and County of San Francisco or work on a City contract within the City, the San Francisco Airport, or the San Bruno Jail, and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay \$4.65 per hour for every hour you work (up to 40 hours a week) to the City and County of San Francisco.

OR

3. **PAY AN ADDITIONAL \$4.65 PER HOUR WORKED TO THE EMPLOYEE**
  - If you live outside the City and County of San Francisco and work on a City contract located outside of the City, and not at the San Francisco Airport or at the San Bruno Jail and your employer does not provide a health plan that meets the Minimum Standards, your employer must pay you an additional \$4.65/hour for every hour you work (up to 40 hours a week) to enable you to obtain health insurance coverage.

**IF YOU BELIEVE YOUR RIGHTS ARE BEING VIOLATED CONTACT THE OFFICE OF LABOR STANDARDS ENFORCEMENT AT (415) 554-7903.**

Office of Labor Standards Enforcement (OLSE)  
City Hall, Room 430  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
[www.sfgov.org/olse/hcao](http://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

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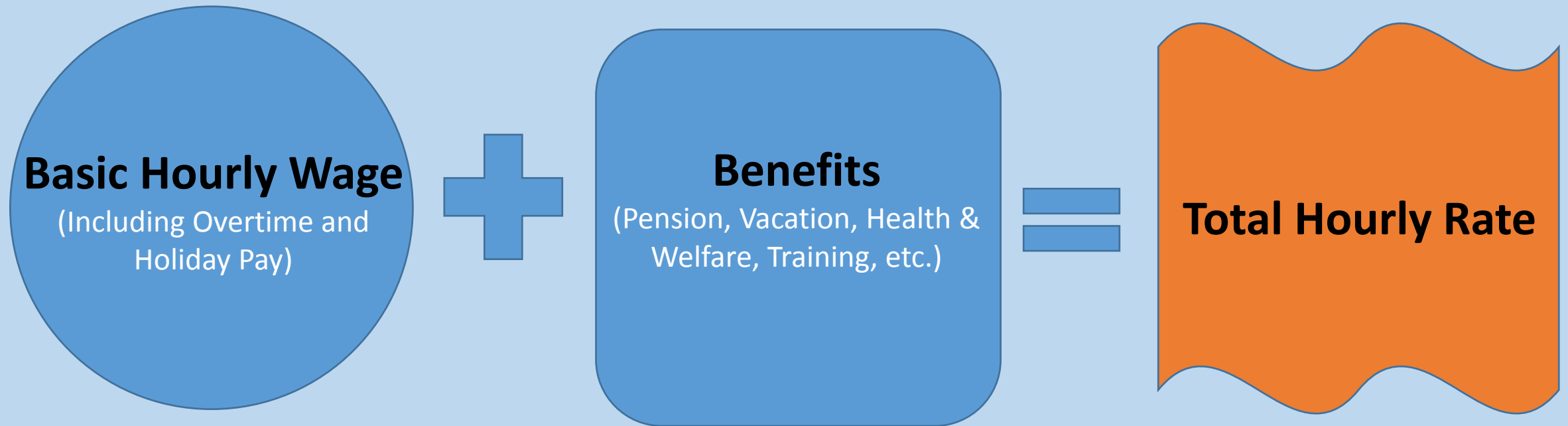


# **Prevailing Wage Provisions Specific to the City and County of San Francisco**

**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





# What is public works?

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

**Federally-funded  
(Davis Bacon)**



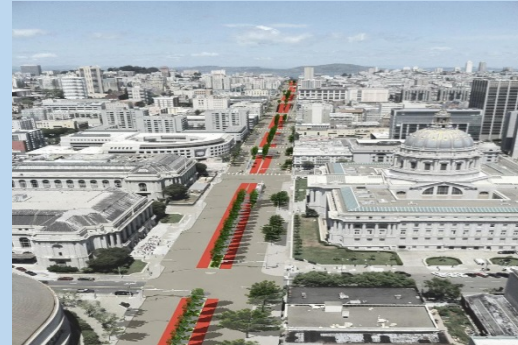
Federal Building at  
7<sup>th</sup> & Market

**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



# 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

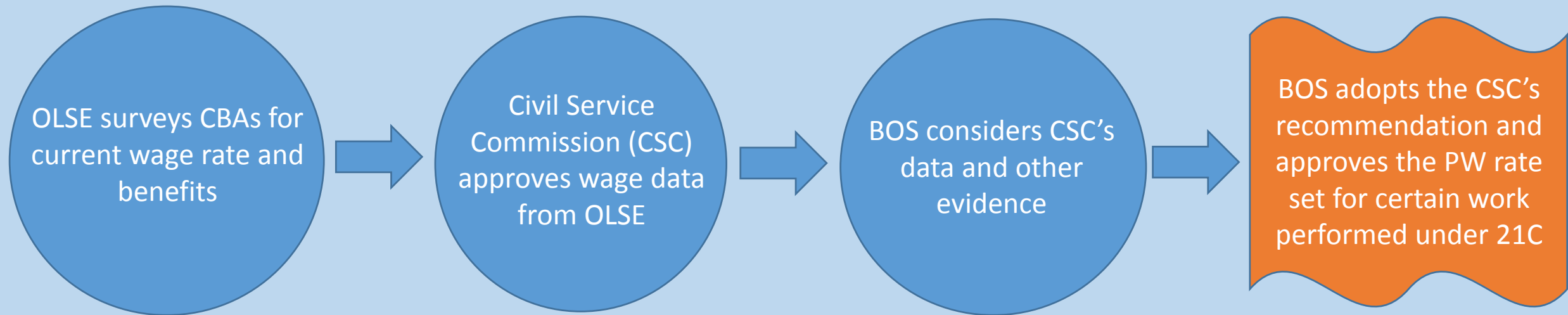


# S.F. Administrative Code Chapter 21C

- 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?



# 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](http://www.sfgov.org/olse/prevailing-wage)**





# Fair Chance Ordinance

Ellen Love  
Principal Analyst

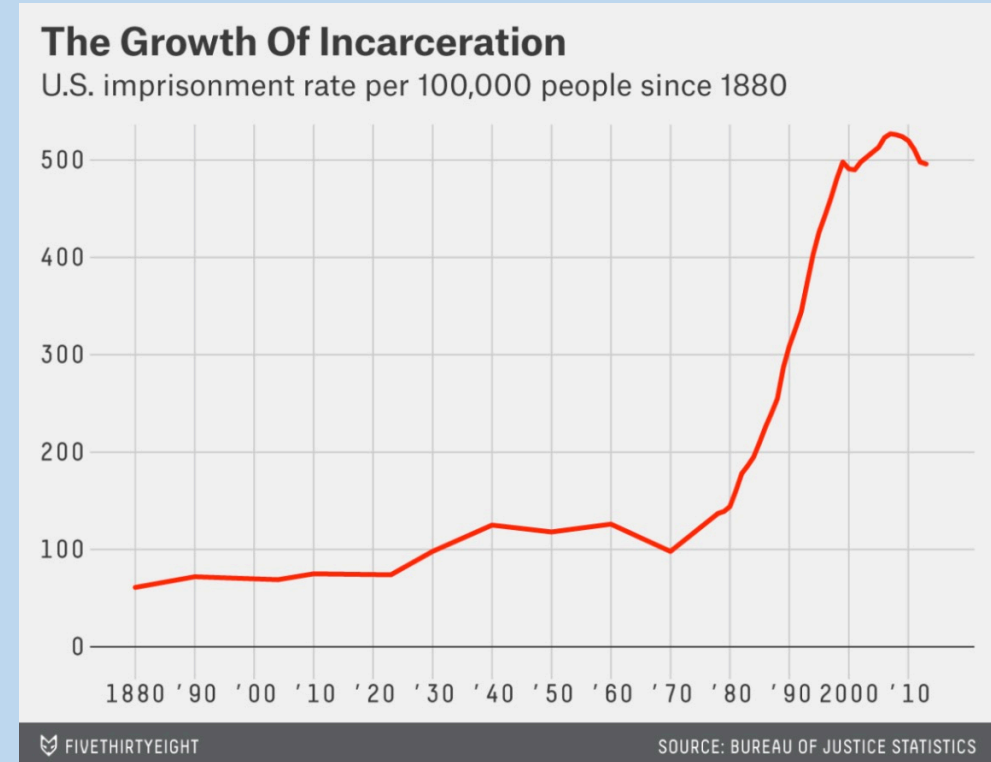
# San Francisco Fair Chance Ordinance

- 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)*

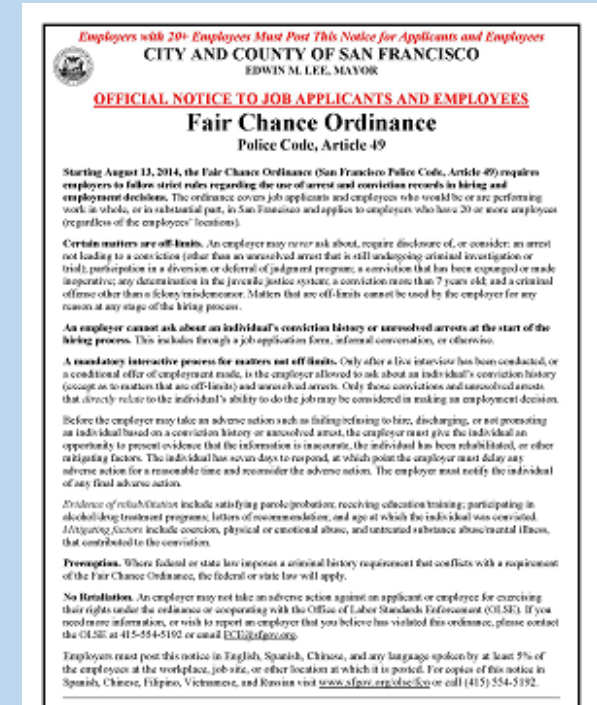




# Background Check Procedures

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](mailto:fco@sfgov.org)

[www.sfgov.org/olse/fco](http://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](mailto: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**

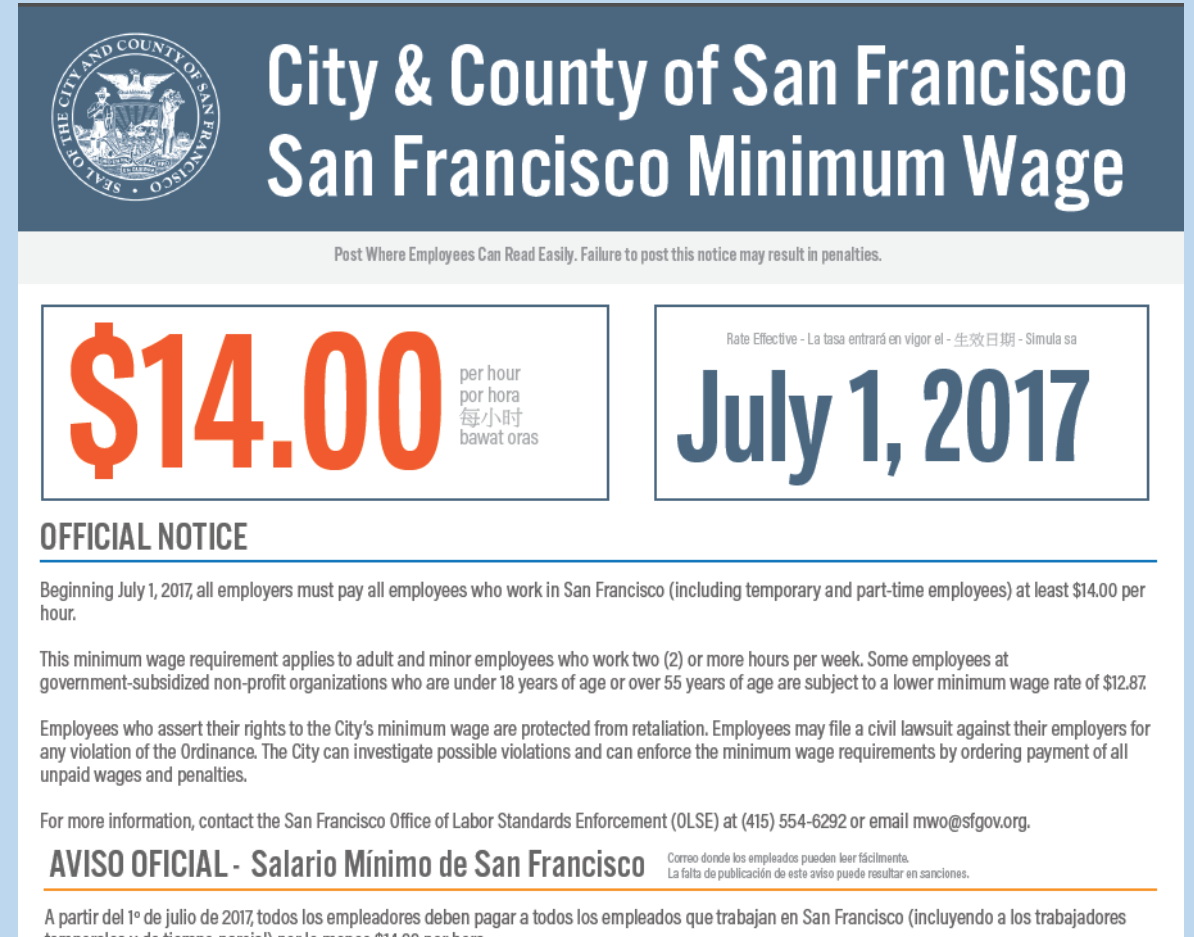
# San Francisco Minimum Wage Ordinance

- 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**



The poster is for the City & County of San Francisco, titled "San Francisco Minimum Wage". It features the city seal and a warning to post in a visible location. The main message is that the minimum wage is \$14.00 per hour, effective July 1, 2017. It includes an "OFFICIAL NOTICE" section in English explaining the requirement and a Spanish section titled "AVISO OFICIAL - Salario Mínimo de San Francisco".

**City & County of San Francisco**  
**San Francisco Minimum Wage**

Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.

**\$14.00** per hour  
por hora  
每小时  
bawat oras

Rate Effective - La tasa entrará en vigor el - 生效日期 - Simula sa  
**July 1, 2017**

**OFFICIAL NOTICE**

Beginning July 1, 2017, all employers must pay all employees who work in San Francisco (including temporary and part-time employees) at least \$14.00 per hour.

This minimum wage requirement applies to adult and minor employees who work two (2) or more hours per week. Some employees at government-subsidized non-profit organizations who are under 18 years of age or over 55 years of age are subject to a lower minimum wage rate of \$12.87.

Employees who assert their rights to the City's minimum wage are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of the Ordinance. The City can investigate possible violations and can enforce the minimum wage requirements by ordering payment of all unpaid wages and penalties.

For more information, contact the San Francisco Office of Labor Standards Enforcement (OLSE) at (415) 554-6292 or email [mwo@sfgov.org](mailto:mwo@sfgov.org).

**AVISO OFICIAL - Salario Mínimo de San Francisco**

Correo donde los empleados pueden leer fácilmente.  
La falta de publicación de este aviso puede resultar en sanciones.

A partir del 1º de julio de 2017, todos los empleadores deben pagar a todos los empleados que trabajan en San Francisco (incluyendo a los trabajadores temporales y de tiempo parcial) por lo menos \$14.00 por hora.



# OLSE HOTLINE for Minimum Wage Questions

(415) 554-6292

[mwo@sfgov.org](mailto:mwo@sfgov.org)

[www.sfgov.org/olse/mwo](http://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
- 1<sup>st</sup> 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



## City & County of San Francisco

### Paid Sick Leave



#### California Healthy Workplaces/Healthy Families Act & SF Paid Sick Leave Ordinance

Employees in San Francisco are entitled to paid sick leave under both California and local San Francisco law.

##### How Much Paid Sick Leave Do San Francisco Employees Accrue?

- One hour of paid sick leave for every 30 hours worked
- Employees begin accruing sick leave on the 1st day of employment
- Employers with 10 or more employees must allow employees to accrue at least up to 72 hours.
- Employers with less than 10 employees may provide paid sick leave in different ways:
  - Allow employees to accrue up to at least 48 hours; or
  - Provide an "advance" of 24 hours or 3 days of paid sick leave to comply with the State law "up-front option," and later allow employees to accrue up to 40 hours to comply with SF law.
- Accrued paid sick leave carries over from year to year
- Amount of available paid sick leave must be listed on each paycheck or wage statement

##### When and How Can Employees Use Paid Sick Leave?

- Can start using paid sick leave on the 90th day of employment
- May use paid sick leave for an existing health condition or preventive care, or for specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking
- May use paid sick leave for employee's own care or care of a specified family member or designated person

**ONE HOUR EARNED**  
for every  
**30 WORKED**

Retaliation or discrimination against an employee who requests and/or uses paid sick days is prohibited. An employee can file a complaint against an employer who retaliates or discriminates against the employee or who fails to provide required sick leave. For more information, contact:  
California Labor Commissioner's San Francisco Office: (415) 703-5300 [http://www.dir.ca.gov/dlse/paid\\_sick\\_leave.htm](http://www.dir.ca.gov/dlse/paid_sick_leave.htm)  
San Francisco Office of Labor Standards Enforcement: (415) 554-6271; [psl@sfgov.org](mailto:psl@sfgov.org)





# 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](mailto:psl@sfgov.org)

[www.sfgov.org/olse/pslo](http://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 (2<sup>nd</sup> 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

Employer Size	2018
100+ Employees	\$2.83/hr
20-99 Employees	\$1.89/hr



- What this looks like for a FULL TIME employee:

	2018
Large Employer	\$486.76/mo \$1,460.28/Q
Medium Employer	\$302.72/mo \$908.16/Q



# 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:

Q1: Apr. 30	Q3: Oct. 30
Q2: July 30	Q4: Jan. 30



# Employer Spending Requirement

## 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](mailto:HCSO@sfgov.org)

**(415) 554-7892**

[www.sfgov.org.else/hcso](http://www.sfgov.org.else/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.

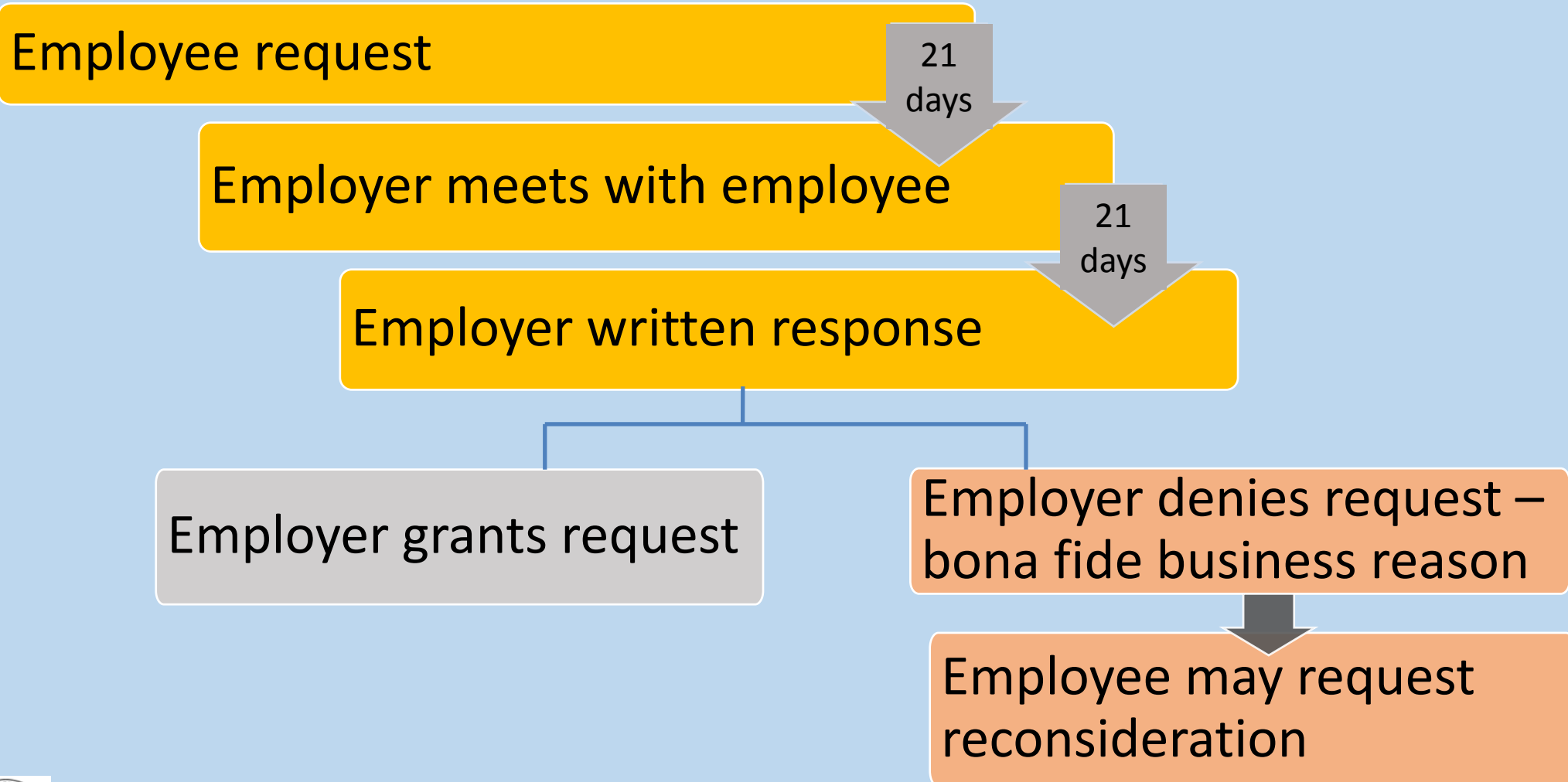


# Caregiving

- 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





# **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

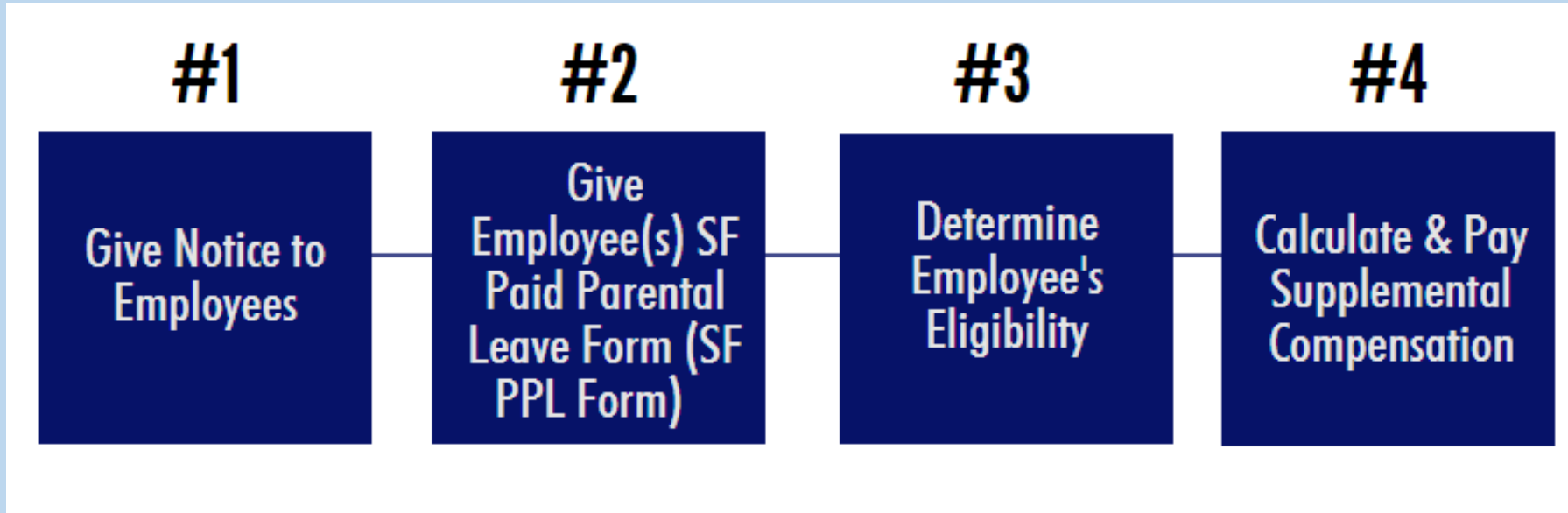
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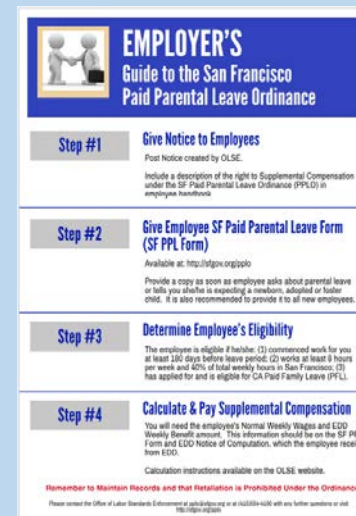




# 4 Steps For Employers



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)

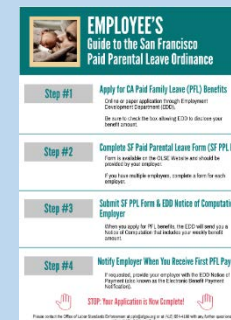
#3

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)

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 (PPLLO), 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 PPLLO. [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 PPLLO.

**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]

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



## New Parent Leave Act (as of Jan. 1 2018)

- Eligibility:
  - 1 year on the job
  - 20 - 49 employees
  - 1,250 hours in the prior year



# 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
  - Contains a place to sit
  - Is safe and clean
  - 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](mailto:lactation@sfgov.org)
- Public rules hearing on June 7, 2018 at ...
- <http://sfgov.org/olse/lactation-workplace>



**Office of Labor Standards Enforcement**



# Question & Answer