

Frequently Asked Questions for San Francisco Paid Parental Leave Ordinance (PPLO)

General Questions:

1. What is San Francisco Paid Parental Leave?

The San Francisco Paid Parental Leave Ordinance (SF PPLO) requires employers who have employees working in San Francisco to provide Supplemental Compensation to employees who are receiving California Paid Family Leave (PFL) benefits to bond with a new child, so that the employees receive up to 100% of their normal weekly wages during 6 weeks of parental leave.

NOTE: There are **two different** parental leave benefit laws that employees may access: (1) the California Paid Family Leave (PFL) program, paid by the State of California's Employment Development Department (EDD); and (2) the San Francisco Paid Parental Leave Ordinance (PPLO), paid by Covered Employers. In order to receive the San Francisco parental leave benefits, an employee will have to apply for **both** the CA PFL benefits (by applying to EDD) **and** the SF PPLO benefits (by submitting the documentation to the employee's employer).

2. How does it work?

The California Paid Family Leave (PFL) is a state benefits program that provides eligible employees with up to 55% (in 2018, the rate will increase to 60% or 70%, depending on income) of their weekly wages for up to 6 weeks to bond with a newborn, newly adopted or foster child. Under the SF PPLO, employers are required to provide employees receiving state PFL for new child bonding with "Supplemental Compensation" equal to the difference between the employee's PFL benefit amount and the employee's normal gross weekly wages such that the employee receives up to 100% of their weekly wages, subject to a weekly maximum benefit amount, for up to 6 weeks.

3. When does it go into effect?

The San Francisco Paid Parental Leave Ordinance takes effect on January 1, 2017 for San Francisco employers with 50 or more employees; on July 1, 2017 for employers with 35 or more employees; and on January 1, 2018 for employers with 20 or more employees.

4. Which employers are covered?

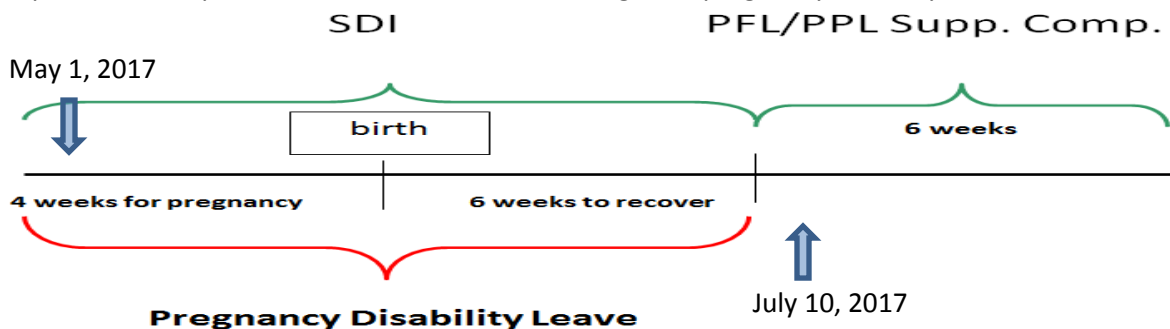
Employers that employ the Threshold Number of Employees (see Question 3, above) are covered. This includes employers located outside of San Francisco, but who have employees who work in San Francisco. *Government employers are not covered.*

To determine whether you employ the required Threshold Number of employees, you must include in the count all employees regardless of their status or classification as seasonal, permanent or temporary, full-time or part-time, contracted or otherwise, and include both those employees who work within San Francisco and those employees who work outside of San Francisco.

If your workforce fluctuates from week to week, you are a covered employer if the average number of employees that you employ during the PPLO Lookback Period reaches the Threshold Number of Employees. The PPLO Lookback Period is the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods preceding the start of the first day of an employee's California Paid Family Leave (PFL) benefits period or preceding the first day of any increment of intermittent state PFL leave. The PPLO Lookback Period does not include any pay periods during which the employee was on unpaid or partially paid leave, including pregnancy disability leave for new mothers (see examples below).

For more information on calculating employer size for employers with a fluctuating workforce, please see Rule 2 in the Rules Implementing the Paid Parental Leave Ordinance, which can be found [here](#) or at <http://bit.ly/2kn91D6>.

Example: Lookback period for new mother transitioning from pregnancy disability leave



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

5. Which employees are covered?

Only employees who meet **ALL** of the following requirements are covered under the SF PPLO and are entitled to receive Supplemental Compensation from their employer(s):

- Commenced work for your covered employer(s) at least 180 days before start of state PFL payment period
- Work at least 8 hours per week for your covered employer(s)
- Work in San Francisco for at least 40% of your weekly hours for your covered employer(s)
- Apply for and receive California Paid Family Leave (PFL) benefits from the State Employment Development Department (EDD)

Government employees are not covered.

6. How does an employee apply for Supplemental Compensation under the San Francisco Paid Parental Leave Ordinance?

An employee must complete multiple steps to receive SF Paid Parental Leave from his/her employer. **First**, the employee must file a claim for California Paid Family Leave (PFL) benefits for new child bonding

through the Employment Development Department (EDD). Employees can file a claim for PFL benefits using [SDI Online](#) or a paper claim form. When filing the claim for PFL benefits, OLSE strongly recommends that employees permit the EDD to disclose benefit payment information to the employer(s). EDD provides employees with the option to disclose such information. This will help ensure prompt payment from the employer. For more information on filing a claim for PFL benefits, click [here](#) to be directed to the EDD's website or visit: http://www.edd.ca.gov/Disability/SDI_Online.htm

Second, the employee must complete the San Francisco Paid Parental Leave Form (PPL Form) and provide it to each Covered Employer (see Question 4 above). You can find the form [here](#) or at www.sfgov.org/pplo. Once the employee files a claim for State PFL, EDD will send the employee a form entitled Notice of Computation (DE429D) which will set forth the employee's weekly State PFL benefit amount. The employee must **then** either provide the Notice of Computation to covered employer(s) and/or check the box on the PPL Form that permits EDD to share the State PFL weekly benefit amount with the employer(s). To ensure prompt payment, OLSE **strongly recommends** that employees both: (1) provide the EDD with permission to disclose the PFL benefit amount to employer(s); and (2) provide employer(s) with a copy of the Notice of Computation.

Finally, if requested by a covered employer(s), the employee must provide employer(s) with his/her Electronic Benefit Payment (EBP) Notification (form DE 2500E), which is provided by the State EDD and which verifies that an employee is in fact eligible for and receiving State PFL benefits. Your employer may refer to this as your "Notice of Payment."

7. How does an employer verify an employee's eligibility for California Paid Family Leave Benefits?

OLSE recommends that employees provide their employer(s) with their Notice of Computation from the State EDD. The Notice of Computation will show the employee's weekly benefit amount under the CA PFL program. However, this form does not confirm an employee's eligibility for benefits. Therefore, an employer may ask an employee to notify the employer that s/he has received benefits or may request that employees provide them with their Electronic Benefit Payment (EBP) Notification (DE 2500E) which explains that the employee will be receiving benefits via the EBP card. This notification is also known as a "Notice of Payment."

8. How much Supplemental Compensation does an employer have to pay an employee under the SF Paid Parental Leave law?

The employer must provide Supplemental Compensation in for the amount that comprises the difference between the employee's normal weekly wage and the State PFL benefit amount, up to a cap. Please see detailed instructions [here](#) or visit <http://sfgov.org/olse/paid-parental-leave-calculations>. If an employee has one employer, her wages have not changed in the last 18 months, and she earns less than the cap, then EDD will pay approximately 55% of her weekly wages, and her employer will pay 45%, so that she receives 100% of her weekly wages for the 6 weeks of leave.

Benefits available under State PFL program are currently capped at \$1,173 per week, which is 55% of \$2,133 per week. An employer is not required to provide Supplemental Compensation that exceeds the

state cap on PFL benefits. For an employee who receives the **maximum** State PFL benefit of \$1,173 per week, an employer's Supplemental Compensation obligation under SF PPLO will be capped at **\$960 per week**, which is 45% of \$2,133 per week.

9. Do employers have to pay Supplemental Compensation under the SF PPLO during an employee's one week waiting period under the California Paid Family Leave program?

No, an employer is not required to pay Supplemental Compensation while the employee is serving his/her one week waiting period for California Paid Family Leave (PFL) Benefits (note also that in 2018, the one-week waiting period for State PFL benefits will be eliminated). Rather, an employer is required to pay Supplemental Compensation for the six (6) weeks that an employee is entitled to and receives state Paid Family Leave benefits, which does not include the one week waiting period.

10. Can an employer apply an employee's accrued, unused vacation or sick time toward covering the cost of the required Supplemental Compensation under the SF PPLO?

An employer may—but is not required to—apply up to two (2) weeks of an employee's accrued, unused vacation time to cover the cost of the required Supplemental Compensation.

Additionally, the California Unemployment Insurance Code permits—but does not require—an employer to require an employee to take up to two weeks of accrued but unused vacation leave prior to the employee's initial receipt of State PFL benefits. Note that if the employer requires the employee to do this—use two weeks of vacation prior to his/her initial receipt of State PFL benefits—such usage will not relieve the employer of its obligation to provide the required six (6) weeks of Supplemental Compensation under the SF PPLO. Additionally, the State EDD will consider one of those weeks as the employee's waiting period.

An employer may not use an employee's accrued but unused sick time to cover the cost of the Supplemental Compensation.

11. Q. Under what circumstances must a covered employee agree to allow a covered employer to apply the employee's PTO to satisfy the employer's Supplemental Compensation obligation?

A. For employers with 10 or more employees, the employee must allow the employer to apply PTO accrued in excess of 72 hours.

Example 1. An employer with 20 employees has a PTO policy that complies with Section 12W.3(e). An employee has accrued 72 hours of PTO. The employee need not agree to allow the employer to apply any PTO to satisfy the employer's Supplemental Compensation obligation.

Example 2. Same facts as in Example #1, except that the employee has accrued 82 hours of PTO. The employee must agree to allow the employer to apply up to 10 hours of PTO to satisfy the employer's Supplemental Compensation obligation.

Example 3. Same facts as in Example #1, except that the employee has accrued 160 hours of PTO. The employee must agree to allow the employer to apply up to 80 hours of PTO to satisfy the employer's Supplemental Compensation obligation.