

A scenic view of the Golden Gate Bridge in San Francisco, with the bridge's towers and suspension cables visible on the left. The background shows the city skyline and the bay under a clear blue sky.

City and County of San Francisco Office of Labor Standards Enforcement

Welcome to Labor Laws for City Suppliers!

We will begin at 9AM

Materials and selected recordings will be available after our event here

<https://sfgov.org/olse/educational-presentations-materials>



City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
Labor Laws for City Suppliers

December 9, 2020



Office of Labor Standards Enforcement

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic orange-red towers and suspension cables are visible on the left side. The background shows the city's skyline across the water under a clear blue sky.

City and County of San Francisco Office of Labor Standards Enforcement

Welcome!

Patrick Mulligan, Director



Office of Labor Standards Enforcement

Session 1

Prevailing Wage

(Contracting Labor Laws)



Materials & Recording

The slides & selected recordings will be posted at our website:

<https://sfgov.org/olse/educational-presentations-materials>



Questions and Answers

Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

Live Question and Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

Some questions may require more information and you may be asked to contact us.



Session 1

- Prevailing Wage

Presenter

Ying Wu





Prevailing Wage Requirements

**Ying Wu, Compliance Officer
Office of Labor Standards Enforcement**

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
7th & Market

**State-funded
(DIR's Wage
Determinations)**



Bay Bridge
Rebuild

**San Francisco-funded
(Chapter 6)**



Bus Rapid Transit
(BRT)

**Other Government
Agency-funded**



Golden Gate
Bridge Suicide
Deterrent Net
System



San Francisco Administrative Code Chapter 6

San Francisco Administrative Code 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 Park**
 5. **San Francisco Public Works (DPW)**
 6. **Port of San Francisco**



Crafts Covered By Prevailing Wage

1	Boilermaker-Blacksmith		54	Building/Construction Inspector and Field Soils and Material Tester+		52	Parking and Highway Improvement Painter
2	Iron Worker		34	Carpenter +		36	Pile Driver (Carpenter)
2A	Electrical Utility Lineman (a)		53	Cement Mason +		47	Pile Driver (Operating Engineer - Heavy and Highway Work) +
2A-1	Electrical Utility Lineman (c)		43	Dredger (Operating Engineer) +		47A	Pile Driver (Operating Engineer - Building Construction) +
2B-2B2	Telecommunications Technician		35	Drywall Installer/Lather (Carpenter) +		52A	Slurry Seal Worker (Laborer)
2B3	Telephone Installation Worker		38	Elevator Constructor		45	Steel Erector and Fabricator (Operating Engineer - Heavy and Highway Work) +
2D-2F	Tree Trimmer (High Voltage Line Clearance)		49	Laborer +	Example	40B	Steel Erector and Fabricator (Operating Engineer - Building Construction) +
2H	Stator Rewinder		57	Landscape Maintenance Laborer		55	Teamster +
2I	Electrical Utility Lineman (b)		34F	Modular Furniture Installer (Carpenter)		44-44A	Traffic Control/Lane Closure (Laborer) and Parking and Highway Improvement Painter (Laborer)
2J	Metal Roofing		39	Operating Engineer (Heavy and Highway Work) +		59	Tree Maintenance (Laborer)
2K-2L	Driver (On/Off-Hauling To/From Construction Site)		40A	Operating Engineer (Building Construction) +		51	Tunnel Worker (Laborer) +
33	Asbestos Worker, Heat and Frost Insulator (h)		42	Operating Engineer (Landscape Construction) +		58	Tunnel/Underground (Operating Engineer) +
52B	Asbestos Removal Worker (Laborer)						

There are sub-classifications under each craft



San Francisco Administrative Code Chapter 23

San Francisco Administrative Code Chapter 23

Mandates prevailing wage and apprenticeship requirements on:

- **Private developments on City-owned or leased property**
- **Private housing development on property that was sold or transferred by the City**

Operative Date: April 20, 2016

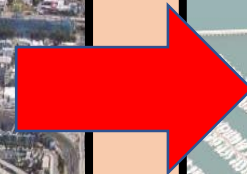


Examples of Private Development on City Owned or Leased Property



PIER 70: Leased by the City for private development and renovation in exchange for a long-term lease as a tenant

Examples of Private Development on City Owned or eased Property (continued)



GIANTS SEAWALL LOT 337: Leased by the City for a new mixed-used development, including 40% affordable homes

Examples of Private Housing Development on Property Sold by the City



30 VAN NESS: Sold by the City for residential development

Examples of Private Housing Development on Property Sold by the City (continued)



BALBOA RESERVOIR: City-owned property sold for housing development

Best Practice for Construction Related Prevailing Wage compliance:

- Attend Pre-Bid/Pre-Con Meetings (if applicable)
- Submit CPRs on a regular basis to LCPTracker
- Maintain and Furnish Payroll Records and Fringe Contribution records
- Contact OLSE if you have any questions regarding Prevailing Wages



Common Compliance Issues

- Pay attention to the California Wage Determination Predetermined Changes.
 - An applicable wage determination remains in effect for the life of the project. Please look up the Predetermined Changes associated to an applicable craft instead of look up the newest wage determination.
- Training Fund
 - Training Fund has to be contributed to an approved apprenticeship program or CAC (California Apprenticeship Council).
- OT for Plumbers and Sheet Metal in San Francisco
 - Certain classifications in SF county require overtime payment for over 7 hours a day





Chapter 21C Miscellaneous Prevailing Wage Requirements

San Francisco 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
- Apply to San Francisco service **contracts, leases, management agreements, and permits.**
- Apply to work performed at any facilities or properties owned or leased by the City.



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.2 – Janitorial Services

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



- Current total hourly rate including fringes (for >4,850 hours): \$33.78 per hour
- Health and welfare contribution is \$8.66 per hour (when employee worked for employer at least four months and minimum 105 hours in previous month)
- Working more than 7.5 hours a day will require overtime pay



21C.2 – Window Cleaners

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



- Current total hourly rate including fringes (for journey person with 3900 hours worked in the industry): **\$39.12 per hour**
- Health and welfare contribution is **\$8.91 per hour** (when employee works at least 975 hours and a minimum of 75 hours in previous month)
- Working more than 7.5 hours a day will be subject to overtime



21C.11 – Security Guard Services

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



- **Current total hourly rate including fringes: \$20.41 per hour** (for Security Officer 1 with health benefit for employee only and hired after 1/1/2020)
- **Amendment to extend current MCO & HCAO contracts will trigger 21C.11**
- **No waivers on health and welfare contribution (HCAO waiver provision does not apply to prevailing wage)**
- **HCSO may apply if employer has 20+ employees**
- **Pay attention to the footnotes**



Exemptions – Security Guards

1. City contracts issued by SF Airport Commission or to be performed at any facility owned, leased, or otherwise under jurisdiction of SF Airport Commission.
2. City contracts for a cumulative amount of \$10,000 or less per security guard services provider in each fiscal year.
3. Celebration of a marriage, domestic partnership, or similar civil union.
4. Event less than \$10,000 and free access in a public park or public street, or property under the jurisdiction of Port Commission.
5. Any permit or agreement to engage in film production.
6. In a circumstance would be preempted by federal or state law.
7. A total number of employees providing security guard services for the event is less than 15 persons.



Best Practice and Common Compliance Issues

- Pay attention to the footnotes on wage chart
- Work performed on a named holiday is paid at 1.5x overtime rate, excess of 8 hours will be paid at the 2x overtime rate
- Employee shall receive holiday pay regardless s/he is scheduled to work or not
- If employer has 20+ employees, HCSO may apply





Questions?

Prevailing wage Hotline:

[415-554-6573](tel:415-554-6573)

Email: prevailingwage@sfgov.org

OLSE Website: <https://sfgov.org/olse/san-francisco-labor-laws-city-contractors>



Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Session 2: Sweatfree, Minimum Compensation, and Health Care Accountability Ordinances

We will start at 10:00AM



Office of Labor Standards Enforcement

A scenic view of the Golden Gate Bridge in San Francisco, with the city skyline and the bay visible in the background under a clear blue sky.

City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
Labor Laws for City Suppliers

December 9, 2020



Office of Labor Standards Enforcement

Session 2

Sweatfree, Minimum Compensation Ordinance and Health Care Accountability Ordinance (Contracting Labor Laws)



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Questions and Answers

Questions & Answers Box

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Session 2

- Sweatfree Contracting Ordinance
- Minimum Compensation Ordinance
- Health Care Accountability Ordinance
- Health Care Accountability Ordinance Minimum Standards

Presenters

Greg Asay

Shinji Sakai-Egi

Patrick Chang





Sweatfree Contracting Ordinance

Greg Asay

Office of Labor Standards Enforcement

San Francisco Sweatfree Contracting Ordinance

- Adopted by the Board of Supervisors in 2005
- “. . . the City and County seeks to assure that the integrity of the procurement process is not undermined by contractors or subcontractors who engage in sweatshop practices.”
- Applies to apparel and textile contracts over \$25,000 (e.g., Muni uniforms, ballistic vests, towels)



Prohibition on Sweatshop Conditions

- No abusive forms of child labor
- No slave labor
- Comply with all human and labor rights and labor standards
- Pay at least the defined wage rate
- Comply with overtime laws and regulations
- No physical, sexual, or other illegal harassment or abuse
- Cannot compel workers to use contraceptives or take pregnancy tests



Sweatfree Scoring System

1. Bidders complete and submit to OCA:
 - Supply Chain Information Form – describes the bid and potential subcontractors
 - Compliance Form – tells the City which of the Ordinance’s requirements the contractor and each sub-contractor will comply with
2. OCA staff analyzes how compliant the bidder is with the Ordinance



Sweatfree Scoring System

- Award to bidder that is 100% compliant
- If no bidder is 100% compliant, award to most compliant – but only if the cost of the contract is within 15% of the cost of a competing bid
- Contracts awarded to most Sweatfree compliant shall be two years; if the Contractor has achieved additional levels of compliance, the City may extend the contract by one year



Worker Rights Consortium

- OLSE contracts for up to four factory inspections and remediation work per year
- Investigative Process
 - Off-site interviews with workers
 - On-site interviews with managers
 - Physical inspection of factories
 - Review of payroll and attendance records
 - Review of applicable national and local laws



San Francisco Sweatfree Contracting Ordinance

For more information, go to:

www.sfgov.org/olse/sweatfree



Office of Labor Standards Enforcement



Minimum Compensation Ordinance (MCO)

Shinji Sakai-Egi
Compliance Officer



Office of Labor Standards Enforcement

MCO & HCAO



These are the labor laws for **non-construction** workers who work on the contract.

Can be located anywhere in the US.

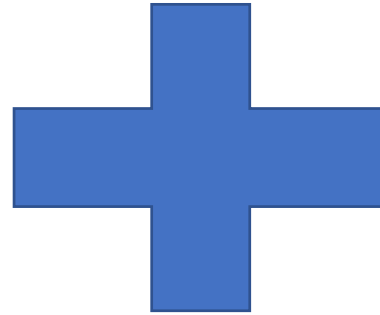
Examples:

- Clerical/administrative staff at office who support the contract
- Project and Construction Managers
- Case workers and Program Managers
- Architects, Engineers, Planners, Designers, other professional services...



MCO

Wages and Paid Time Off (PTO)



Office of Labor Standards Enforcement

Minimum Compensation Ordinance (MCO)

Not just about paying the minimum hourly rate

Doesn't matter where the company is located – Vendors need to comply if ordinance is in the Agreement

MCO: Covered Employer

- For-profit and nonprofit – 5+ workers (permanent, temporary, etc.) anywhere in the world with a City contract or grant
- Includes subcontractors and subtenants

MCO: Covered Employee/Worker

- Anyone working for a covered employer on a City contract
- Worker/Employee is anyone – doesn't matter if full-time, part-time, contract, casual, etc.



MCO: Requires Covered Employees to Receive (at least)

The minimum hourly compensation rate:

1. *For Profit Rate is \$18.24 per hour, effective 7/1/2020*
 - Annual increases occur every July 1

2. *Nonprofit Rate is \$17.05 per hour*
 - 12/8/20 was most recent increase
 - Increases shall be by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index
 - The City must appropriate funds for such increases

3. *Public Entities Rate is \$17.25 per hour*
 - 9/1/20 was most recent increase
 - An additional increase to \$17.50 shall be in effect when the election results are certified. Operational date is TBD
 - Increases are subject to the City funding



MCO: Requires Covered Employees to Receive (at least)

- Paid Time Off (PTO)
 - Accrual rate is 0.04615 hours of paid time off (12 days for 40 hour a week employees)
 - PTO is the property of the worker – Needs to be paid out upon termination
 - Caps at 96 hours and rolls over to following year
 - Existing policies such as vacation and sick leave or providing time off upfront may be compliant as long as it's consistent with the requirements.
 - PTO violations are the most common violations for the MCO



MCO: Requires Covered Employees to Receive (at least)

- Unpaid Time Off
 - Accrual rate is 0.0392 (10 days for full-time 40 hour a week employees)
 - Caps at 80 hours and rolls over to the following year
 - An existing sick leave policy or other types of unpaid leaves such as Family Medical Leave that your firm offers may meet the unpaid time off requirement
 - If your firm offers at least 22 days of PTO per year, additional unpaid time off is not required



Effective
July 1st 2020

MCO Rules and Regulations

- The July 2020 MCO Rules and Regulations includes clarification and details about how to comply with the MCO.
- Application of MCO to prime contractors and subcontractors
- Threshold for being a covered employer and covered employees
- MCO compensation rates, PTO, and UTO
- Paid Sick leave Ordinance (PSLO) preemption
- Notices and posters for employees



Office of Labor Standards Enforcement



Integration of PSLO into MCO Rules and Regulations

Applies to work performed in San Francisco only

- Starting July 1, 2020, San Francisco Paid Sick leave Ordinance (PSLO) preemption requires that City Contractors may not provide a cash equivalent of PTO in lieu of sick leave required under the PSLO
- At termination, employer must pay out all MCO PTO employee accrued
- It is optional for an employer to pay out PTO prior to employee termination.
- Visit the [PSLO](#) website for more details about determining the PSLO hours





Integration of PSLO into MCO Rules and Regulations

Applies to work performed in San Francisco only

Example of PTO payout prior to employee termination:

- If on an annual basis, the employer wants to pay out PTO, the employer must:
 - Determine
 - MCO PTO hours the employee has
 - How many hours under the PSLO, the employee has
 - Cash out amount = MCO PTO minus the PSLO time





MCO Rules and Regulations Excluded Employees with Non-Profits

- 1) **Youth:** Non-profit employees are not a covered employee under the MCO if that employee
 - a) is under the age of 18 and;
 - b) is claimed as a dependent for federal tax purposes and;
 - c) is employed as an after-school or summer employee

All criteria must be met and you must have confirmation/proof:

- Obtain a letter from the employee's parents stating that the employee is a dependent for federal income tax purposes and the youth is employer as an after-school or summer employee.

If you don't have this documentation, the youth is covered under the MCO.





MCO Rules and Regulations Excluded Employees with Non-Profits

2) Trainees - Are Trainees Covered under the MCO?

Non-profit employees are not a covered employee under the MCO *IF*

a) that employee is employed as a trainee in a bona fide training program consistent with federal law, **and;**

b) the training program enables the employee to advance into a permanent position.

All of the above must be met for an employee to be excluded or not covered under the MCO.





MCO Rules and Regulations Excluded Employees with Non-Profits

Definition of a Bona fide vocational training program:

- A program authorized and approved by a state board of vocational education or other recognized educational body that provides for part-time employment training which may be scheduled for a part of the work day or workweek, for alternating weeks or for other limited periods during the year

AND

- Supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college, or university.
- Confirmation of exclusion: The contracting department may obtain the approval from state board of vocational education or other recognized educational body.



MCO – Other Requirements

- Annual Posters
- Annual MCO Know Your Rights Forms
- MCO Rules and Regulations
- All posters and forms are on our website:
www.sfgov.org/olse/mco



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 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.



MCO – Penalties for Non-compliance

- Repay wages to employees, plus interest
- Restore PTO accruals to current employees
- Cash out unused PTO to former employees
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



Voluntary Compliance Audit Program

Why Participate?

- Ensure that your company is compliant with MCO – material conditions of your contract/lease
- No MCO Liquidated Damages (LD) Penalties will be assessed



Contact OLSE

Office of Labor Standard Enforcement – MCO & HCAO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-7903

Fax: (415) 554-6291

Email: mco@sfgov.org, hcao@sfgov.org

Website: www.sfgov.org/olse

MCO

<http://sfgov.org/olse/minimum-compensation-ordinance-mco>

HCAO

<http://sfgov.org/olse/health-care-accountability-ordinance-hcao>



Office of Labor Standards Enforcement



Health Care Accountability Ordinance (HCAO)

Shinji Sakai-Egi
Compliance Officer



Office of Labor Standards Enforcement

Health Care Accountability Ordinance (HCAO)

Contract Requirement

- Applies to contracts for services and leases.
- Grants are exempt from HCAO but company may need to comply with HCSO (CCSF citywide labor law)



Health Care Accountability Ordinance (HCAO)

HCAO: Covered Employer

- For-profit with more than 20 employees (anywhere), or nonprofit with more than 50 – includes subcontractors
- with a City contract
- or a lease on City property (including SFO and SF Port)

HCAO: Covered Employee/Worker

- Anyone working for a covered employer on a City contract at least 20 hours a week



HCAO Requirements – Option 1/3

*Employer must choose **one** of the following options that fit the situation/employee:*

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
 - A compliant health plan
 - Must meet **ALL of the HCAO Minimum Standards** for health plan
 - See HCAO Minimum Standards Document
 - The offer must be made on an annual basis



HCAO Requirements – Option 1/3

Review HCAO Minimum Standards to understand what is a compliant health plan

Questions and for a review

Patrick Chang

Senior Health Program Planner

San Francisco Department of Public Health (DPH)

Phone: 415-554-2925

Patrick.Chang@sfdph.org



HCAO Requirements – Option 1/3

- Must have a response (Yes/No) for each employee regarding the HCAO compliant health plan
 - Yes = Enrollment in compliant health plan
 - No = Voluntary HCAO Waiver Form/Declination Section in enrollment paperwork



HCAO Requirements – Option 1/3

- How to handle multiple health plan offerings?
 - Offer the HCAO compliant health plan with other offerings
 - If the employee wants a non-compliant health plan
 - Collect paperwork to show the employee declined the HCAO compliant health plan



HCAO Requirements – Option 1/3

Best Practices

- Before signing a contract, have DPH review the health plan and give feedback.
- Save all correspondence that shows health plan met HCAO Minimum Standards.



HCAO Requirements – Option 1/3

Best Practices

- Save all enrollment brochures, employee pricing info, forms, screenshots from Portals, reports of selections.
- Must have a response (Yes/No) for each employee:
 - Yes = Evidence and proof of enrollment
 - No = Evidence and proof of declination
 - Voluntary HCAO Waiver Form
 - Declination Section of Enrollment Forms



HCAO Requirements – Option 2/3

2. Pay \$5.60 per employee per hour to SF General Hospital (not Healthy SF)

- Rate adjusted every July 1
- Fee goes to SF General Hospital – not a benefit or \$ for worker (this is NOT Healthy San Francisco)

This option is only for employees performing work in

- City and County of San Francisco
- San Francisco International Airport
- San Bruno Jail



HCAO Requirements – Option 2/3

Best Practices

- Clear written communication to employees that this is how you are complying with HCAO and that the payments you make to SF General Hospital is not a benefit to them



HCAO Requirements – Option 2/3

Best Practices

- Make payments to SF General Hospital within 30 days of the ending month
- Payment/Reporting form available on our website
 - Fill out completely
 - Information about employees is for reporting purposes
 - Electronic payments option available but must still send report
 - Send Payment/Reporting form to:
 - San Francisco General Hospital
 - Atten: Accounting Department, 3rd Floor
 - 2789 25th Street
 - San Francisco, CA 94110



HCAO Requirements – Option 3/3

Pay an additional \$5.60 per hour worked to the employee

- This is only for employees who work on a contract **outside of the City and County of San Francisco**. However, work performed at the San Francisco International Airport or the San Bruno Jail does not apply to this option.



HCAO Requirements – Option 3/3

Best Practices

- Written communication
 - Specifics of why you are doing this and what to expect. For example, when they will receive payment
- Payments
 - Pay within 30 days of the end of the month
 - Separate check with memo to note that payment is for HCAO compliance
 - If direct deposit, a line item showing payment on paystub



HCAO Expansion at SFO

Amendment to HCAO requires Quality Standards Program (QSP) Employers at the San Francisco International Airport to provide specific health benefits to an employees' family.

- **Operative Date is March 20, 2021 – QSP employers must comply**
- Copy of legislation on OLSE website: www.sfgov.org/olse/hcao
- OLSE will soon provide:
 - Guidance
 - Webinars
 - Documents
 - More information



What if my worker is not an HCAO covered employee/worker?

If your employee/worker does not work 20 hours or more a week AND performs work in the City and County of San Francisco, then you may need to comply with the Health Care Security Ordinance (HCSO).

Health Care Security Ordinance (HCSO)

<https://sfgov.org/olse/health-care-security-ordinance-hcso>

hcso@sfgov.org

(415) 554-7892



Other Compliance Requirements

- Posters and Forms
- HCAO Rules and Regulations
- All posters, forms, more information on our website:
www.sfgov.org/olse



HCAO: Penalties for Non-compliance

- Pay HCAO Fee Owed to SF General Hospital and/or employee
- Reimburse employees out-of-pocket medical expenses (i.e. insurance premiums)
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



Voluntary Compliance Audit Program

Why Participate?

- Ensure that your company is compliant with HCAO – material conditions of your contract/lease
- No HCAO Liquidated Damages (LD) Penalties will be assessed
- HCAO Fees are reduced 50%



Contact OLSE

Office of Labor Standard Enforcement – MCO & HCAO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-7903

Fax: (415) 554-6291

Email: mco@sfgov.org, hcao@sfgov.org

Website: www.sfgov.org/olse

MCO

<http://sfgov.org/olse/minimum-compensation-ordinance-mco>

HCAO

<http://sfgov.org/olse/health-care-accountability-ordinance-hcao>



Office of Labor Standards Enforcement

HEALTH CARE ACCOUNTABILITY ORDINANCE (HCAO) MINIMUM STANDARDS OVERVIEW

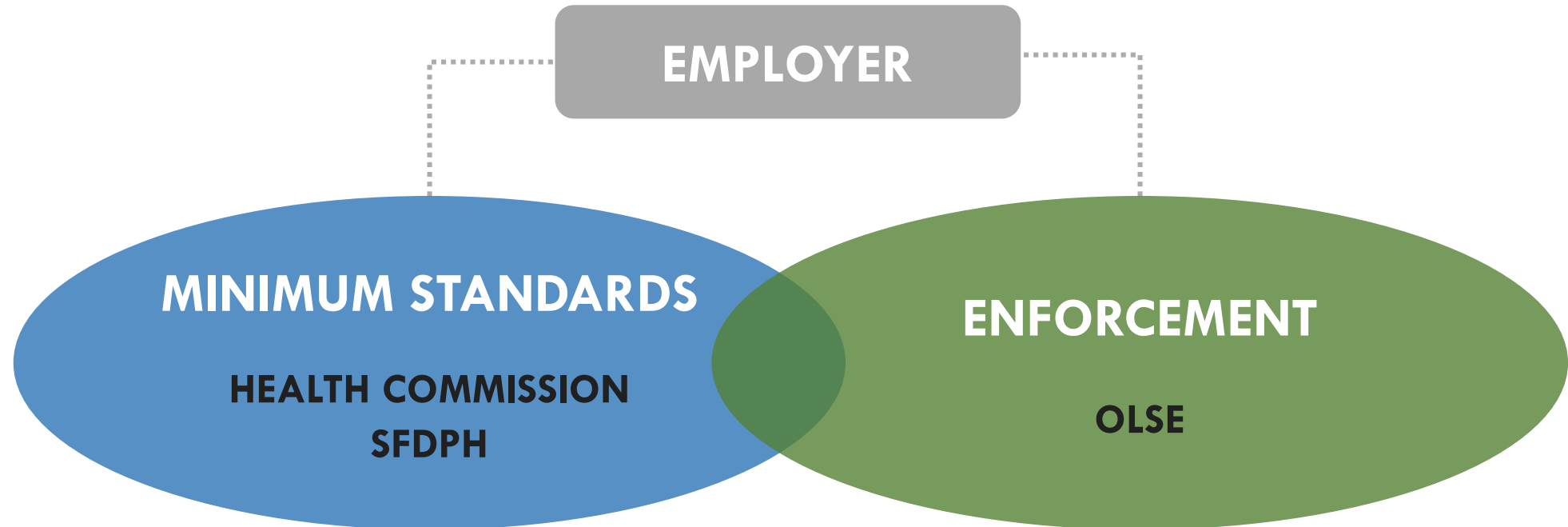
DECEMBER 9, 2020



OFFICE OF POLICY & PLANNING • SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH



DEPARTMENT ROLES

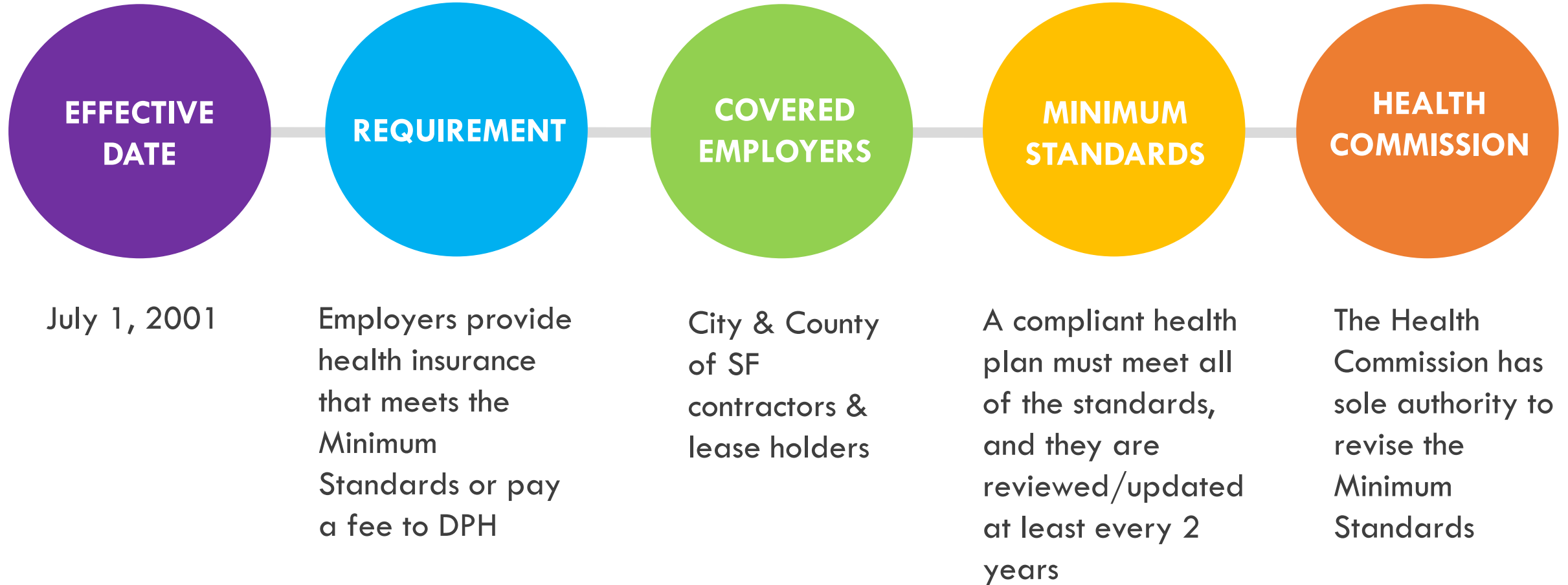


- Updates Minimum Standards
- Reviews health plan compliance

- Audits employers
- Responds to worker complaints
- Negotiates settlements
- Coordinates payment plans



OVERVIEW



EFFECTIVE DATE

July 1, 2001

REQUIREMENT

Employers provide health insurance that meets the Minimum Standards or pay a fee to DPH

COVERED EMPLOYERS

City & County of SF contractors & lease holders

MINIMUM STANDARDS

A compliant health plan must meet all of the standards, and they are reviewed/updated at least every 2 years

HEALTH COMMISSION

The Health Commission has sole authority to revise the Minimum Standards



MINIMUM STANDARDS

16

MINIMUM STANDARDS
JAN 1, 2021 – DEC 31, 2022

- EMPLOYER CONTRIBUTION
- EMPLOYEE COST-SHARING
- COVERED SERVICES





MINIMUM STANDARDS (2021-2022)

All gold and platinum plans are automatically deemed compliant if the plan satisfies the minimum standards for:

- ✓ **EMPLOYER CONTRIBUTION = 1, 3**
- EMPLOYEE COST-SHARING = 2, 4, 6, 7
- ✓ **COVERED SERVICES = 5, 8-16**




MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	CURRENT	EFFECTIVE JAN 1, 2021
1	PREMIUM CONTRIBUTION [^]	Employer pays 100%	No change
2	ANNUAL OOP MAXIMUM	<ul style="list-style-type: none">In-Network: \$7,800 maxOut-of-Network: Not specified	In-Network:  to \$8,200 max
3	REGULAR (MEDICAL SERVICES) DEDUCTIBLE [^]	<ul style="list-style-type: none">In-Network: \$2,000 maxOut-of-Network: Not specifiedEmployer reimburses <u>all</u> expenses that count towards amount[#]	In-Network:  to \$3,000 max

[^] Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant




MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD	EFFECTIVE JAN 1, 2021
4	PRESCRIPTION DRUG DEDUCTIBLE	<ul style="list-style-type: none">In-Network: \$200 maxOut-of-Network: Not specified	In-Network:  to \$300 max
5	PRESCRIPTION DRUG COVERAGE [^]	Plan must provide drug coverage, including coverage of brand-name drugs.	No change

[^] Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD	EFFECTIVE JAN 1, 2021
6	COINSURANCE PERCENTAGES	<ul style="list-style-type: none">In-Network: 80% / 20%Out-of-Network: 50% / 50%	No change
7	COPAYMENT FOR PRIMARY CARE PROVIDER VISITS	<ul style="list-style-type: none">In-Network: \$45 max / visitOut-of-Network: Not specified	In-Network:  to \$50 max / visit

^ Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD
8	PREVENTIVE & WELLNESS SERVICES* ^	<ul style="list-style-type: none">• In-Network: Provided at no cost, per ACA rules.• Out-of-Network: Subject to the plan's out-of-network fee requirements.
9	PRE/POST-NATAL CARE* ^	<ul style="list-style-type: none">• In-Network: Scheduled prenatal exams and first postpartum follow-up consult is covered without charge, per ACA rules.• Out-of-Network: Subject to the plan's out-of-network fee requirements.

^ Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD
10	AMBULATORY PATIENT SERVICES (OUTPATIENT CARE)* ^	<ul style="list-style-type: none">• When coinsurance is applied See Benefit Requirement #6• When copayments are applied for these services:• Primary Care Provider: See Benefit Requirement #7• Specialty visits: Not specified
11	HOSPITALIZATION* ^	<ul style="list-style-type: none">• When coinsurance is applied See Benefit Requirement #6• When copayments are applied for these services: Not specified

^ Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD
12	MENTAL HEALTH & SUBSTANCE USE DISORDER SERVICES, INCLUDING BEHAVIORAL HEALTH* ^	<ul style="list-style-type: none">• When coinsurance is applied See Benefit Requirement #6
13	REHABILITATIVE & HABILITATIVE SERVICES* ^	<ul style="list-style-type: none">• When copayments are applied for these services: Not specified
14	LABORATORY SERVICES* ^	

^ Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



MINIMUM STANDARDS (2021-2022)

#	BENEFIT REQUIREMENT	STANDARD
15	EMERGENCY ROOM SERVICES & AMBULANCE* ^	Limited to treatment of medical emergencies. The in-network deductible and coinsurance also apply to emergency services received from an out-of-network provider.
16	OTHER SERVICES* ^	The full set of covered benefits is based on the ACA list of Essential Health Benefits in conjunction with the Covered California EHB Benchmark plan .

^ Indicates the Minimum Standards that must be satisfied for gold and platinum plans to be compliant



COMPLIANCE = ALL OR NOTHING

- A bronze or silver health plan must satisfy all minimum standards in order to be compliant.
- A gold or platinum health plan must satisfy all minimum standards for employer contributions and required covered services in order to be compliant.

CONTACT INFORMATION

Patrick Chang

patrick.chang@sfdph.org

(415) 554-2925



OFFICE OF POLICY & PLANNING • SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH



Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Session 3: Fair Chance and Consideration of Salary History Ordinances

We will start at 11:00AM



Office of Labor Standards Enforcement

A scenic view of the Golden Gate Bridge in San Francisco, with the city skyline and the bay visible in the background under a clear blue sky.

City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
Labor Laws for City Suppliers

December 9, 2020



Office of Labor Standards Enforcement

Session 3

Fair Chance and Consideration of Salary History Ordinances (Contracting & Citywide Labor Laws)



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Session 3

- Fair Chance Ordinance
 - Consideration of Salary History Ordinance
- (Contracting & Citywide Labor Laws)

Presenter

Shinji Sakai-Egi





Fair Chance Ordinance (FCO)

Shinji Sakai-Egi
Compliance Officer



Office of Labor Standards Enforcement

San Francisco FCO - Who is Covered?

- **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
- **San Francisco 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





Compliant Hiring Process



Job Announcements



- Announcements **cannot** say that someone with arrests or convictions will not be considered, or that a background check must be “passed.”
- Announcements **must** include an affirmative statement of compliance with the FCO:

“Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records.”



Job 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.



Overview of a Compliant Hiring Process

[1 of 2]

1. Job postings must include compliant statement.
2. No “must pass background” or questions asking about background until a conditional offer of employment.
3. After a conditional of employment has been made, employer may conduct background check. No automatic rejections.



Overview of a Compliant Hiring Process

[2 of 2]

4. If you will plan to revoke the job offer due to the background report, you must conduct an individualized assessment and provide the preliminary decision to revoke the job offer
5. Offer applicant 7 days to provide clarification of errors in the background, mitigating circumstances, and evidence of rehabilitation
6. Conduct individualized reassessment with the background report and new information from the applicant



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. Any decriminalized offense (such as some cannabis convictions)



Exceptions to Prohibited Information

Employers can consider convictions and arrests prior to 7-year look back period 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



What the FCO Doesn't Do:

- FCO does **NOT** require employers to give preference to, or hire an unqualified individual with an unresolved 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



Office of Labor Standards Enforcement

Common Violations

[1 of 2]

1. Employer asks about convictions on job applications
2. Employer refuses to hire based on a conviction that is 7+ years old
3. Employer implies that no individuals with convictions will be hired (saying a background check must be “passed”)



Common Violations

[2 of 2]

4. Employer has an improper process of notifying applicants of conviction or unresolved arrests and length of durations
5. Failing to provide a copy of the background check
6. Failing to provide 7 days for applicant to review and respond
 4. State of CA requires 5 days



Best Practices

Go to the [FCO website](#) and review:

- Review the frequently asked questions and the ordinance
- View the recorded webinar

The FCO is a process law. Gain an understanding of the necessary steps to comply with the FCO.



Contact OLSE

Office of Labor Standard Enforcement – FCO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-5192

Fax: (415) 554-6291

Email: fco@sfgov.org

Website: www.sfgov.org/olse

FCO

<https://sfgov.org/olse/fair-chance-ordinance-fco>





Consideration of Salary History Ordinance

Shinji Sakai-Egi
Compliance Officer



Office of Labor Standards Enforcement

Legislative History

- The Ordinance will help ensure that an individual's prior earnings, which may reflect widespread, longstanding, gender-based wage disparities in the labor market, do not continue to weigh down a woman's salary throughout her career.



Key Provisions

- Employers may not ask applicants about their current or past salary
- Employers may not disclose a current or former employee's salary history without that employee's written authorization unless the salary history is publicly available



Key Provisions

- An applicant may choose to share salary history information voluntarily and without prompting. If the applicant does so, the employer may consider that information in determining the salary to offer that applicant.
- Applies to all prime proposers and subconsultants.



Best Practices

- Ensure that all steps of the hiring process does not inquiry about salary history such as the job application.
- Inform everyone involved in the hiring process about the requirements under the Consideration of Salary History Ordinance.



OLSE – Consideration of Salary History

www.sfgov.org/olse/consideration-salary-history

(415) 554-6469

salaryhistory@sfgov.org





Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Session 4: Minimum Wage, Paid Sick Leave Ordinances (Citywide Labor Laws)

We will start at 11:30AM



Office of Labor Standards Enforcement

A scenic view of the Golden Gate Bridge in San Francisco, with the city skyline and the bay visible in the background under a clear blue sky.

City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
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December 9, 2020



Office of Labor Standards Enforcement

Session 4

Minimum Wage, Paid Sick Leave Ordinances

(Citywide Labor Laws)



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Session 4

- Minimum Wage Ordinance
- Paid Sick Leave Ordinance
(Citywide Labor Laws)

Presenter

Linshao Chin





Minimum Wage Ordinance (MWO)

Linshao Chin
Compliance Officer



Office of Labor Standards Enforcement

San Francisco Minimum Wage Ordinance



The notice features the City & County of San Francisco seal on the left. The main title reads "City & County of San Francisco San Francisco Minimum Wage". Below the title is a warning: "Post Where Employees Can Read Easily. Failure to post this notice may result in penalties." The notice is divided into two sections: the left section displays "\$16.07" in large orange font, with "per hour" and its translations in Spanish, Chinese, and Tagalog below it; the right section displays "July 1, 2020" in large blue font, with the phrase "Rate Effective" and its translations above it.

City & County of San Francisco
San Francisco Minimum Wage

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

\$16.07 per hour
por hora
每小時
bawat oras

Rate Effective - La tasa entrará en vigor el - 生效日期 - Simula sa
July 1, 2020

- The minimum wage is currently **\$16.07** per hour
- On **July 1** of every year, the minimum wage is adjusted based on the annual increase in the Consumer Price Index.



**OLSE HOTLINE for
Minimum Wage Questions**

(415) 554-6292

mwo@sfgov.org

www.sfgov.org/olse/mwo





Paid Sick Leave Ordinance (PSLO)

Linshao Chin
Compliance Officer



Office of Labor Standards Enforcement

Covered Employees

- Effective 7/1/20, the Minimum Compensation Ordinance (MCO) integrated the PSLO into the PTO requirements. For more information, please watch the on-demand MCO webinars on the MCO webpage, read the MCO Rules and Regulations, or contact the MCO unit at mco@sfgov.org.
- Employees who perform work in San Francisco (56 or more hours per year), 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; accrued PSL hours carry over from year to year
- Employers must notify employees of PSL accrued each pay period
- Employees can use any PSL accrued



QUESTION: Can a company front load 72 hours instead of using an accrual method?

ANSWER: Yes, a company may front load hours. OLSE would consider that an advance on sick leave hours yet to be accrued.

If you front load 72 hours for an employee at the beginning of the year, it is possible for an employee to use and accrue more than 72 hours in a year.



EXAMPLE:

An employee accrues 72 hours of paid sick leave and does not use any sick leave during the first year of employment. In January of year 2, they fall ill and use all 72 of those hours at that time.

They come back to work full time and over the next 11.5 months, accrue 64 new hours of paid sick leave. At the end of December, they fall ill again and use 64 hours of sick leave.

In total, under this scenario, the employee has used 136 hours of paid sick leave in year 2. Under this scenario, a policy that permits employees to use only 72 hours per year would be insufficient to meet the requirements of the law.



A compliant policy would be to front load 72 hours at the start of each year, allow all unused hours to roll over and have a maximum cap of 136 hours of paid sick leave at any time.



Paid Sick Leave Questions

(415) 554-6271

psl@sfgov.org

www.sfgov.org/olse/pslo





Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Session 5: Health Care Security Ordinance (Citywide Labor Law)

We will start at 12:00PM



Office of Labor Standards Enforcement



City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
Labor Laws for City Suppliers

December 9, 2020



Office of Labor Standards Enforcement

Session 5

Health Care Security Ordinances

(Citywide Labor Laws)



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Session 5

- Health Care Security Ordinance

Presenter

Janet Man





Health Care Security Ordinance (HCSO)

Janet Man
Compliance Officer



Office of Labor Standards Enforcement

HCSO History and Overview

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



Covered Employers

Nonprofit employers:

50+ persons perform work
week in the quarter

For-profit employers:

20+ persons perform work per
per week in the quarter

Minimum size threshold is based on total number of
employees in ALL locations worldwide



Covered Employees

- Employed for at least 90 calendar days for your organization
- Work at least 8 hours per week in San Francisco
- **NOT COVERED:**
 - Managers/Supervisors. Must satisfy (1) job duties test and (2) salary requirement. (\$104,761 per year or \$50.37 per hour)
 - Medicare OR TRICARE
 - **Employees covered by the Health Care Accountability Ordinance (HCAO)**
 - Employees who have employer based health coverage *through another employer* and who voluntarily sign an OLSE Employee Waiver Form



Employer Spending Requirement

Employer Size	2020	2021
100+ Employees	\$3.08 /hr	\$3.18/hr
20-99 Employees	\$2.05/hr	\$2.12/hr

****Health Care Expenditure Rates Change Annually on January 1st****



Employer Spending Requirement

- Payable Hours x 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.
 - For Q4 2020 (Oct., Nov., Dec.) the deadline is Jan. 30, 2021
- **Quarterly Deadlines:** Q1: Apr. 30, Q2: July 30, Q3: Oct. 30, Q4: Jan. 30.



How to Satisfy the Employer Spending Requirement?

- Provide health insurance:
 - Payments for insurance premiums, including medical, dental, and/or vision insurance for 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



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) open in April.
- 3) Maintain employment records
 - Employment Records demonstrating contributions made each quarter
- 4) Satisfy Employer Spending Requirement (ESR)



Post-COVID/Telecommuting

- The main thing the employer should focus on is where the work is being done geographically.
- If an employee normally works outside of SF and is now working remotely from home inside SF, those are payable hours.
- If an employee normally works within SF and is now working from home outside of SF, those hours don't count.



Common Compliance Issues

- Failing to make any health care expenditures for some or all covered employees
- Not meeting the health care expenditure owed to a Covered Employee (e.g. spending too little for health insurance)
- Not providing part time employees who work 8+ hours/week with a health care expenditure (e.g. part time employee does not qualify for employer's health insurance, no alternative health benefit provided to employee)
- Failing to make health care expenditures for employees with other coverage



HCAO vs. HCSO: distinctions

HCAO

- applies to City Contractors or Lessees
- applies to employees working at least 20 hours a week on the contract or City property
- requires a minimum standard insurance plan (or a SF General Hospital fee payment)
- Employee has no waiting period for coverage

HCSO

- applies to Covered Employers with employees in San Francisco
- applies to employees working at least 8 hours a week in San Francisco, who are not covered under the HCAO
- has a spending requirement
 - An employer can choose how to spend the money (e.g. Health Insurance, City Option, etc.)
- employee has a 90 day waiting period for coverage

Note: For more information on how the HCAO and HCSO can interact, please contact Beverly Popek at 415-554-6238.

HCAO vs. HCSO: employee analysis

Does employee work on a City contract?

Yes



Does e'ee work at least
20h/wk on the contract?

Yes



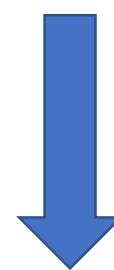
HCAO applies

No

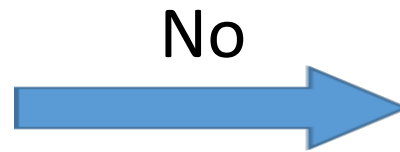


Does e'ee work in San
Francisco?

Yes



HCSO applies



Learn more about the HCSO

- Sign up for HCSO updates on OLSE website:

[Email Updates](#)

- [Online Resources](#)

- Administrative Guidance
- OLSE Official Notice
- Annual Reporting Form
- Employee Voluntary Waiver Form

- [Attend a Webinar](#) (offered monthly—see www.sfgov.org/olse)

- Email us: HCSO@sfgov.org

- Call us: (415) 554-7892





Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Session 6: Family Friendly, Lactation in the Workplace, Paid Parental Leave Ordinance (Citywide Labor Law)

We will start at 12:30PM



Office of Labor Standards Enforcement

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Session 6

Family Friendly, Lactation in the Workplace, and Paid Parental Leave Ordinances (Citywide Labor Laws)



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Session 6

- Family Friendly Workplace Ordinance
- Lactation in the Workplace Ordinance
- Paid Parental Leave Ordinance
(Citywide Labor Laws)

Presenters

Shinji Sakai-Egi

Bernice Casey





Family Friendly Workplace Ordinance

Shinji Sakai-Egi
Compliance Officer



Office of Labor Standards Enforcement

When does Family Friendly Workplace Ordinance apply?

- Applies to employers who have 20 or more employees globally
- Applies to employees who:
 - Work within the geographic boundaries of San Francisco
 - Work at least 8 hours per week
 - Employed for 6 months or more



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



Employee Rights

The employee's request may include, but is not limited to, request for changes in:

- The number of hours worked
- Times worked
- Work location
- Work assignments
- Predictability of work schedule



Employer Response Requirements

After receiving a request, the employer is required to:

- Meet with the employee within 21 days.
- Consider the request and respond within 21 days of the meeting.

The employer may grant or deny the request.

- If the employer ***denies*** the request, the employer is required to:
- Explain the denial in writing and provide a bona fide business reason for the denial.
- Notify the employee of the right to request a reconsideration.



FFWO: Right to a Process

Employee request

21
days

Employer meets with employee

21
days

Employer written response

Employer grants request

Employer denies request –
bona fide business reason

Employee may request
reconsideration



Resources and Contact Information

Online: www.sfgov.org/olse/ffwo

Sample Request Forms and required notice to employees

FFWO email: FFWO@sfgov.org

FFWO help line: (415) 554-6424





Lactation Accommodation in the Workplace



Office of Labor Standards Enforcement

Legislative History

- The purpose of the LWO “is to provide a supportive work environment to enable employees who are nursing mothers to breastfeed or express breast milk during work hours”
- Amends the San Francisco Police Code and San Francisco Building Code, establishing local standards to complement State and Federal law



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 surface
 - Contains a place to sit
 - Has access to electricity
- Employers must provide, in close proximity to the employee’s work area, access to a refrigerator and a sink with running water
- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own



Employer Requirements – Lactation Accommodation Policy

Employers must develop and implement a Lactation Accommodation policy that affirms an employee's right to lactation accommodation and explains how employees may request it, including:

- A. Identify the process by which an employee may submit a request
- B. Require the employer to respond within 5 business days
- C. Require the employer and employee to engage in an interactive process to determine the appropriate lactation break period(s) and location



OLSE – Lactation in the Workplace

www.sfgov.org/olse/lactation-workplace

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

lactation@sfgov.org





Paid Parental Leave Ordinance

Bernice Casey
Compliance Officer



Office of Labor Standards Enforcement

What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 21, 2016 and implemented beginning 2017.
- 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 additional compensation from their employer while they are taking PFL.



Covered Employers

Applies to employers worldwide that have employee(s) who work(s) in San Francisco

- Employ Threshold Number of Employees:
Global count of twenty (20) or more employees
- An Employer with fluctuating workforce – number of employees goes up and down over time – should average employees over PPLO Lookback period
- Covered employers must display poster (available on our website) and provide the PPLO form to any employee who is expecting to become a parent (Rule 4)

Note: Government entities are not covered employers



Covered Employees

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 a covered employer
5. Apply for and receive California Paid Family Leave (PFL) benefits from the Employment Development Department (EDD)
6. The employee does not have to be covered by other state or federal leave laws to receive the benefit



Key Term: PPLO LookBack Period

- The 12 weekly, 6 semi-monthly or bi-weekly, or 3 monthly pay periods before the first day of an employee's leave
- Is used to determine if an employer is covered when the number of employees fluctuate
- Is used to determine if an employee is covered when hours fluctuate
- Is used to calculate the average normal weekly wage when wages fluctuate.
- When in doubt, call OLSE with questions about whether employer and employee are covered by the PPLO



Steps for Employers

1. Post the Notice
2. Provide the PPLO form to any employee who indicates that they will be or have become a parent (Other employer obligations under federal & state law)
3. Determine employee eligibility
4. Calculate and pay employee



EMPLOYER'S Guide to the San Francisco Paid Parental Leave Ordinance

Step 1

Give Notice to Employees

Post OLSE's annual notice.

Include information about supplemental pay under the SF Paid Parental Leave Ordinance (SF PPLO) in employee handbook.

Step 2

Give Employee SF Paid Parental Leave Form (SF PPL Form)

The form is available at www.sfgov.org/pplo.

Give your employee a copy as soon as they ask about parental leave or notify you that they are expecting a newborn, adopted, or foster child. If the company has vacation or PTO policies, review those with the employee now.

Step 3

Determine Employee's Eligibility

The employee is eligible if they: (1) started work for you at least 180 days before the leave; (2) work for at least 8 hours and 40% of their total week hours in San Francisco; (3) have applied for and are eligible for EDD Paid Family Leave.

Step 4

Calculate & Pay Supplemental Compensation

You will need the employee's Normal Weekly Wages and EDD Weekly Benefit amount. This information will be on the completed SF PPL Form and EDD Notice of Computation, which the employee receives from the EDD.

Calculation instructions are available on the OLSE website.

Remember to Maintain Records and that Retaliation is Prohibited Under the Ordinance

Please contact the Office of Labor Standards Enforcement at plco@sfgov.org or at (415) 554-4190 with any further questions or online at www.sfgov.org/pplo.



Steps for Employees



Step 1

Apply for EDD Paid Family Leave

Apply for PFL through the Employment Development Department (EDD) online at www.californiapaidfamilyleave.com or with a [paper application](#). If you do not have a driver's license or ID, use a paper application.

Check box A22, allowing EDD to disclose your benefit amount to your employer.

Step 2

Complete SF Paid Parental leave Form (SF PPL Form)

Your employer should give you the form. You can also find it online at www.sfgov.org/pplo.

If you have multiple employers, complete a form for each employer.

Step 3

Give Employer SF PPL Form and EDD Notice of Computation

The EDD will send you a Notice of Computation that includes your weekly benefit amount. If you were paid State Disability Insurance (SDI) before PFL, use the Notice of Computation the EDD sent you for your SDI claim.

Step 4

Notify Employer When You Receive First PFL Payment

Your employer may ask for your Notice of Payment or Electronic Benefit Payment Notification.

Please contact the Office of Labor Standards Enforcement at pplo@sfgov.org or at (415) 554-4150 with any further questions or online at: www.sfgov.org/pplo.

1. Apply for California Paid Family Leave, on-line or in paper form
2. Complete the San Francisco Paid Parental Leave (PPL) form
3. Submit the completed SF PPL form and the Notice of Computation to Employer
4. Maintain records and receipts from EDD



Paid Family Leave (PFL)

- Employee funded benefit
- **Eight weeks** of partial wage replacement to employees while:
 1. caring for a seriously ill family member; OR
 2. bonding with a newborn, adopted or foster child
- Benefit, depending on income, is 60% to 70% up to cap
- Both parents can take the same or different time
- Can be taken consecutively or intermittently
- Must be taken within one year of birth, adoption or placement

PFL Questions: Call 855.342.3645



How to Provide Supplemental Compensation

1. Employee returns SF PPL form
 - a. review Section II
2. Calculation Instructions
 - a. EDD weekly rate
 - b. Employee's Normal Gross Weekly Wages

The sum of the EDD PFL benefit & employer provided supplemental compensation equals 100% of employee's gross wages to a cap (2020 cap is \$2,167)

Example:

If an employee earns \$1,000 per week and the EDD replaces \$700 then the employer will owe \$300 per week for up to eight weeks (\$2,400).

Payment is due at next regularly scheduled pay period



Paid Parental Leave Ordinance: Common Compliance Issues

- Notifying employees about their rights: *as soon as you become aware that an employee expects to become a parent via birth, adoption, or fostering*, provide them with the PPLO form and document that you provided the form.
- Common misconceptions:
 - Paid Family Leave and PPLO compensation are only for birth mothers (not true!!)
 - An employee has to take their eight weeks all at once (not true!!)
 - If an employee hasn't worked for 180 days, I don't need to notify them of their rights (not true!! The employee may become covered by PPLO at a later date, while they're eligible for PFL!!)

Paid Parental Leave Ordinance Best Practices

- Update your Employee Handbook/Portal about PPLO
- Keep records of the PPLO form: language (English/Spanish/Chinese/other), date provided to employee, date returned by employee.
- Communicate with the employee before, during and after leave
- Maintain all EDD records and payroll records
- Use the Calculation Instructions on the PPLO website
- Pay the employee supplemental compensation at regularly scheduled pay periods
- Contact the OLSE if you have questions



Employer Resources on PPLO Website

- Official Notice – required to be posted
- Webinar slides and audio presentations
- Downloadable Excel calculators
- Written Calculation Instructions
- FAQs
- Rules
- Employee & Employer documents in multiple languages

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



Questions?

415.554.4190

pplo@sfgov.org

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





Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



**Session 7:
Public Health Emergency Leave, COVID-Related Employment
Protections, Employee Protections Emergency Ordinances &
Health Care Requirements for Specified COVID-Related Contracts
Mayoral Directive (Citywide & Contractor Laws)**

We will start at 1:30PM



Office of Labor Standards Enforcement



City and County of San Francisco Office of Labor Standards Enforcement

Welcome!
Labor Laws for City Suppliers

December 9, 2020



Office of Labor Standards Enforcement

Session 7

- Public Health Emergency Leave
- COVID Related Protections Employment Ordinance
- Employee Protections Emergency Ordinance
- COVID-Related Employment Protections & Health Care Requirement for Specified COVID-Related Contracts Mayoral Directive

(Contractor & Citywide Labor Laws)



Materials & Recording

The slides & selected recordings will be posted at our website:

<https://sfgov.org/olse/educational-presentations-materials>



Questions and Answers

Questions & Answers Box

- Staff will provide answers to your questions via the Q&A box during the presentation(s)

Live Question and Answer Session

- OLSE staff will answer select questions LIVE at the end of the presentation(s)

Some questions may require more information and you may be asked to contact us.



Session 7

- Public Health Emergency Leave
- COVID Related Employment Protections Ordinance
- Employee Protections Emergency Ordinance
- COVID-Related Employment Protections & Health Care Requirement for Specified COVID-Related Contracts Mayoral Directive

Presenters

Linshao Chin

Beverly Popek





Public Health Emergency Leave Ordinance (PHELO)

Linshao Chin
Compliance Officer



Background

- Starting April 17, 2020, businesses with **500 or more employees worldwide** must provide two weeks (up to 80 hours) of paid Public Health Emergency Leave to each employee who performs work in San Francisco.
- The Board of Supervisors passed an extension (to December 13, 2020) at its October 20 meeting.



Use of Public Health Emergency Leave

Employees may use PHELO if they are unable to work or telework due to any of the following:

- (1) The employee is subject to an individual or general government quarantine or isolation order related to COVID-19, including shelter-in-place orders. This includes an employee who is a member of a “vulnerable population.”
- (2) The employee has been advised by a health care provider to self-quarantine.
- (3) The employee is experiencing symptoms associated with COVID-19 and seeking a medical diagnosis.



Use of Public Health Emergency Leave

(4) The employee is caring for a family member who meets one of the categories listed on the previous slide.

(5) The employee is caring for a family member if that person's school or place of care has been closed, or the care provider of that person is unavailable, due to the Public Health Emergency.

(6) The employee is experiencing any other substantially similar condition specified by the Local Health Officer or federal law.



PHELO for Health Care Providers and Emergency Responders

An employee who is a health care provider or an emergency responder may use Public Health Emergency Leave due to either of the following:

1. The employee has been advised by a health care provider to self-quarantine.
2. The employee is experiencing symptoms associated with COVID-19, seeking a medical diagnosis, and does not meet the [Centers for Disease Control and Prevention guidance](#) for criteria to return to work for healthcare personnel with confirmed or suspected COVID-19.



Amount of Public Health Emergency Leave Available to Employees

- Amount of leave is not accrued. Employees are entitled to the leave regardless of how long they've been employed.
- Employees who were full-time (40 hour per week) employees as of February 25, 2020 are entitled to 80 hours of Public Health Emergency Leave.



Amount of Public Health Emergency Leave available to employees

- See PHELO FAQ 14-21 for calculation of PHELO hours

<https://sfgov.org/olse>

- Employees are not be entitled to more than 80 hours of Public Health Emergency Leave.



For more information about Public Health Emergency Leave:

Visit www.sfgov.org/olse

Ordinance, FAQs, PHELO Poster

Call the multilingual PSL hotline at **(415) 554-6271**

Email psl@sfgov.org





COVID-Related Employment Protections Ordinance (CEPO)

Linshao Chin
Compliance Officer



Office of Labor Standards Enforcement

Background

- The COVID-Related Employment Protections Ordinance took effect on September 11, 2020 as an emergency ordinance.
- The Board of Supervisors passed an extension (to January 9, 2020) at its November 10, 2020 meeting.



Who is Covered?

- Employees, including part-time or temporary employees
- An employee or independent contractor that has performed at least 16 hours of work for the employer



Worker Protections

- No adverse action 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
 - Does not matter if the Worker is eligible to take paid or unpaid leave under any employer benefit program or any other local, state, or federal protection



Applicant Protections

- Employers may not make or rescind an offer to employ or contract with an applicant based on whether an applicant tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure.
- If an applicant is unable to start work because the applicant tested positive for COVID-19 or is isolating or quarantining due to COVID-19 symptoms or exposure, the employer shall reasonably accommodate the applicant by scheduling a later start date where reasonably feasible.



For more information about COVID-Related Employee Protections Ordinance (CEPO):

Visit www.sfgov.org/olse
Ordinance, FAQs, Poster

Call the multilingual PSL hotline at **(415) 554-6077**

Email cepo@sfgov.org



Office of Labor Standards Enforcement



Employee Protections Ordinance (EPO)

Beverly Popek
Supervising Compliance Officer

Background

- On April 21, 2020, the San Francisco Board of Supervisors adopted the Employee Protections Ordinance as an emergency ordinance.
- The ordinance took effect on May 1, 2020, and will expire on January 9, 2021 unless reenacted by the Board of Supervisors, or upon the termination of the Public Health Emergency, whichever occurs first.



Who is covered under this ordinance?

Someone who works at least two (2) hours a week in San Francisco for:

- a grocery store, supermarket, convenience store
- restaurant, cafe, or other establishment primarily engaged in the retail sale of food
- a drug store, pharmacy, or other establishment primarily engaged in the retail sale of medication, pharmaceuticals, or medical supplies



Who is covered under this ordinance? Continued

Someone who works at least two (2) hours a week in San Francisco for:

- an On-Demand Delivery Service
 - a third-party online or mobile application or other internet service that offers or arranges for the consumer purchase and same-day or scheduled delivery of food products, medications, or other goods directly from no fewer than 20 restaurants, grocery stores, drug stores, and other Essential Businesses



What employees' protections does this offer?

For grocery stores, restaurants, cafes, drug stores:

- Allow employees to cancel scheduled work for any reason for which an employee may otherwise use leave under the City's Paid Sick Leave Ordinance or emergency paid sick leave under the Families First Coronavirus Response Act.
- Employees must be allowed to use any available accrued paid sick leave or emergency paid sick leave, or where reasonably feasible to reschedule or make up the work without penalty.



What employees' protections does this offer?

On-Demand Delivery Services must offer:

1. Provide to or reimburse employees for the reasonable cost of purchasing necessary hand sanitizer, disinfecting cleaning supplies, and any needed personal protective equipment such as gloves and face masks. These must be provided at no cost to the employee.



What employees' protections does this offer?

On-Demand Delivery Services must offer:

2. Provide the Social Distancing Protocols of Health Order No. C19-07b (Section 13.h) to employees in a manner calculated to reach all employees: via electronic communication and/or by posting conspicuously on the business's web-based or app-based platform.
3. Offer employees who make deliveries the option of a "no-contact" delivery method where feasible with detailed guidance on how to safely make both in-person and no-contact deliveries.



What employees' protections does this offer?

On-Demand Delivery Services must offer:

4. Require delivery drivers to regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so. Again, there can be no cost to the employee.



Filing a Complaint / Questions

- To file a complaint under the Employee Protections Ordinance, call 311.
- For general questions, contact OLSE at (415) 554-7890 or Employee.Protections@sfgov.org.





Health Plan Requirements for Specified COVID-19 Essential Services Contracts

Beverly Popek
Supervising Compliance Officer

Background

- Health Plan Requirements for Specified COVID-19 Essential Services Contracts is a Mayoral Directive
- Applies to COVID-19 Essential Service Contracts first advertised, solicited, or initiated after **May 13, 2020**.
- Order shall remain in place during the local emergency unless terminated earlier by the Mayor.



What contracts are covered?

- COVID-19 essential services contract for food service, delivery of food, janitorial services, or cleaning services
- Applies to COVID-19 Essential Service Contracts first advertised, solicited, or initiated after **May 13, 2020**.



What does this require the contractor to do?

- Employers must offer their covered employees and covered employees' dependents health plan benefits that meet the minimum standards prepared by the Health Director
- Covered employees are employees that work for 2 hours or more per week on the essential services contract within San Francisco



What does this require the employer to do?

- Employer must have a compliant health plan to offer employee and employees' families on day 1
- Collect the employees' response
 - Yes = Enrollment (immediately)
 - No = Written proof that employee and family were offered plan but does not want the health plan
- If you are bidding/proposing, contact OLSE to assist you before you submit your proposal/bid



Minimum Standards for Health Plans

- The Minimum Standards for Health Plans are the same Minimum Standards as for the Health Care Accountability Ordinance (HCAO)
- A compliant health plan must meet all the minimum standards
- Minimum Standards can be found here:
www.sfgov.org/olse/hcao



More Information

- To read the full Mayoral Directive:
<https://sfgov.org/olse/sites/default/files/14%20Supplement.signed.5.13.20.pdf>
- For more information, call (415) 554-7903 or email HCAO@sfgov.org





Questions?

Send us your questions in the Q&A Box



Office of Labor Standards Enforcement



Thank you for attending!



Office of Labor Standards Enforcement