Thank you for joining us! We will begin shortly.

This webinar will be recorded.

All phones have been muted to prevent background noise.
OVERVIEW OF TODAY’S WEBINAR

Moderator

Kelly Jenkins-Pultz,
Regional Administrator,
US Department of Labor
Women’s Bureau

Logistical Coordinator

Deborah Pascal,
Program Analyst,
US Department of Labor
Women’s Bureau

Speakers

Jenna Gerry, Attorney
Work & Family Program
Legal Aid at Work

Benjamin Weber
Senior Administrative Analyst
City and County of San Francisco
Office of Labor Standards Enforcement
What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 12, 2016
- First of its kind in the United States
- Ensures that San Francisco Employees have **6 weeks fully paid** leave to bond with a new child (newborn, adoptive, or foster)
- Employers required to supplement an employee’s California **Paid Family Leave (PFL)** benefits.
COVERED EMPLOYER

- Regularly Employ Threshold Number of Employees:
  - January 1, 2017  50+ employees
  - July 1, 2017    35+ employees  (See Rule 2 and definitions)
  - January 1, 2018 20+ employees

- Includes employers located outside of San Francisco, but have employees who work in San Francisco

- Threshold Number of Employees include all employees (i.e., seasonal, permanent, temporary, part-time, full-time, etc.), including both employees who work in and out of San Francisco

- Government entities are not covered employers
If the size of the employer’s workforce fluctuates from week to week, the determination of whether the employer is covered is based on the average number of employees in each week of the PPLO Lookback Period—12 weeks or 3 months prior to employee’s leave (see Rule 2.2).

**Example**
- An employee’s first day of Paid Family Leave is August 7, 2018
- The employer recently grew from 19 to 25 employees

<table>
<thead>
<tr>
<th>Number of employees performing paid work during the 12-week PPLO Lookback Period:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 1</td>
<td>19 employees</td>
<td>Week 7</td>
</tr>
<tr>
<td>Week 2</td>
<td>19 employees</td>
<td>Week 8</td>
</tr>
<tr>
<td>Week 3</td>
<td>19 employees</td>
<td>Week 9</td>
</tr>
<tr>
<td>Week 4</td>
<td>19 employees</td>
<td>Week 10</td>
</tr>
<tr>
<td>Week 5</td>
<td>20 employees</td>
<td>Week 11</td>
</tr>
<tr>
<td>Week 6</td>
<td>20 employees</td>
<td>Week 12</td>
</tr>
</tbody>
</table>

The average # of employees during the PPLO Lookback Period is 21, so the employer is covered by the PPLO and must pay this employee Supplemental Compensation.
For *birth mothers* transitioning from *Pregnancy Disability Leave (PDL)*, **PPL Lookback Period** will be the 12 weeks or 3 months prior to her *Pregnancy Disability Leave*, up to 26 weeks prior to *Paid Family Leave* period.

**EXAMPLE**

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

- **Post Notice**
- Provide employee(s) with copy of the San Francisco Paid Parental Leave Form (SF PPL Form)
  - *when employee returns SF PPL Form, sign and give copy to employee*
- Determine employee’s eligibility
- Calculate & Pay Supplemental Compensation
  - *Supplemental Compensation should be paid on the payday for the next full pay period following the employee’s satisfaction of all preconditions (see Slide 9)*
- **Maintain Records**
  - All materials available on OLSE website
• **Works in San Francisco**
• Commenced work for a covered employer at least **180 days** before leave period
• Work at least **8 hours per week in San Francisco** for a covered employer
• Work in San Francisco at least **40% of weekly hours** for your covered employer
• Apply for and receive California Paid Family Leave (PFL) benefits from the Employment Development Department (EDD)
• **Government employees are not covered.**
How to Apply?

- Apply for California Paid Family Leave (PFL) Benefits
  - Online or Paper Application
  - *allow EDD to disclose benefit amount to your employer

- Complete SF PPL Form, sign and give copy to covered employer(s)
  - Employer must also sign
  - You should retain a copy for your own records

- Give copy of Notice of Computation (DE429D) to employer
  - Employee will receive Notice of Computation from EDD 7-10 days, on average, after applying for PFL

- Notify employer when you receive your first payment, and, if requested, provide employer with Notice of Payment

Give SF PPL Form to EMPLOYER(S), not the OLSE!
SAN FRANCISCO PAID PARENTAL LEAVE FORM (SF PPL FORM)

Available at: http://sfgov.org/olse/paid-parental-leave-ordinance
PAID FAMILY LEAVE (PFL)

- Employee Funded State Benefit
- **6 WEEKS** OF PARTIAL WAGE REPLACEMENT WHILE:
  - Caring for a seriously ill close family member; or
  - bonding with a newborn, adopted or foster child (PPLO applies only to bonding claims)
- Benefit is **55%** of weekly wage, up to $1,173 per week in 2017
- Benefit increases to **60%** or **70%**, depending on income, in **2018**
- One week waiting period
  - Not for birth mothers transitioning from State Disability Insurance (SDI) to PFL
  - Eliminated in 2018
- Can be taken **Intermittently** or all at once
Employee’s PFL benefit amount not based on current wages, but on employee’s “Base Period” wages.

A “Base Period” covers 12 months and is divided into four consecutive quarters.

Employee’s PFL benefit amount based on his/her highest quarter of earnings in the base period.

Will not always equal 55% of current normal weekly wages.
Supplemental Compensation

- Sum of the EDD benefit and the Supplemental Compensation equals 100% of normal gross weekly wages
- Employee’s total weekly benefits (EDD + Supplemental Compensation) is capped at $2,133 for 2017
- Employers may require employee to agree to use up to 2 weeks of accrued, unused vacation to cover the cost of the required Supplemental Compensation payments (3300H.4(b)(5)) *If the employee does not agree, then employer is not required to pay Supplemental Compensation.
- Must be paid in full within 30 days of end of leave for employee who meets preconditions before or during leave (Rules 5 and 6)
- Sick leave may not be used to cover Supplemental Compensation.
- Comes from EMPLOYER(s), not City and County of San Francisco.
Supplemental Compensation Calculation Terms

- **Employment Development Department (EDD) Weekly Benefit:** amount paid to employee by EDD
  - Weekly benefit amount is calculated based on the employee’s weekly wages in the EDD base period - 5 to 18 months in the past (see EDD Chart on slide 12)

- **Paid Parental Leave Ordinance (PPLO) Normal Weekly Wages**
  - Employee’s salary during the week prior to leave; or
  - If weekly wages fluctuate (increase and decrease), then average of PPLO Lookback Period wages (3300H4.(b)1(B))

- **Notice of Computation:** EDD notice sent to employee that includes weekly benefit amount
Where is the EDD Weekly Benefit Amount?

Sample EDD Notice of Computation

Notice of Computation contains:
- Weekly benefit amount = $962
- Daily benefit amount for a 7 day week
- Quarterly, qualified wages

Electronic Benefit Payment Notice contains:
- Pay period(s) and amount
- See Rule 5.2
Basic Calculation B – A = C

EDD Base Period Weekly Wage = $1,000

PPLO Normal Weekly Wage = $1,000

• (B) Normal Weekly Wage $1,000
• (A) EDD Weekly Benefit - $550
• (C) Supplemental Compensation = $450

$450 × 6 Weeks = $2,700 (total amount employer must pay to employee)
Calculation 1 Example Chart

EDD Weekly Benefit Amount = $550
Supplemental Compensation = $450
Total Benefit = $1,000
### Calculation Example 2

**Basic Calculation B – A = C**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDD Base Period Weekly Wage</td>
<td>$1,000</td>
</tr>
<tr>
<td>PPLO Normal Weekly Wage</td>
<td>$1,100</td>
</tr>
<tr>
<td>• (B) Normal Weekly Wage</td>
<td>$1,100</td>
</tr>
<tr>
<td>• (A) EDD Weekly Benefit</td>
<td>- $550</td>
</tr>
<tr>
<td>• (C) Supplemental Compensation</td>
<td>= $550</td>
</tr>
</tbody>
</table>

$550 × 6 weeks = **$3,300** (total amount employer must pay to employee)
Calculation 2 Example Chart

EDD Weekly Benefit Amount = $550
Supplemental Compensation = $550
Total Benefit = $1,100
Supplemental Compensation Notes

- Maximum benefit under the Ordinance (EDD Benefit + Supplemental Compensation) is $2,133 for 2017 (3300H.4(b)(2))
  - Maximum Weekly EDD Benefit for 2017 is $1,173
  - Employers may always pay more than the ordinance requires
- Calculation instructions available here: http://sfgov.org/olse/paid-parental-leave-calculations
- Retain calculations for records as directed by 3300H.6
INTERACTION WITH FEDERAL AND STATE LAW:
FAMILY MEDICAL LEAVE ACT (FMLA)
CALIFORNIA FAMILY RIGHTS ACT (CFRA)

12 weeks of job-protected leave to:

- Bond with a new child (including adoptive and foster children)
- Care for a family member with a serious health condition
- For your own serious health condition

Eligibility

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

*For birth mothers, bonding leave does not start until after they have recovered from pregnancy disability.
Interaction of Job-Protected Leave and Paid Parental Leave (PPL) Ordinance for Non-Birth Parents

**Employee who is ELIGIBLE for FMLA/CFRA and PPL**

- **PFL/PPL Supplemental Compensation**
  - 6 weeks
- **12 weeks of job-protected time off and health insurance**

**FMLA/CFRA**
Interaction of Job-Protected Leave and PPL Supplemental Compensation for Birth Mothers

**FMLA/CFRA and PPL Eligible Workers:**

<table>
<thead>
<tr>
<th>SDI</th>
<th>PFL/PPL Supp. Comp.</th>
</tr>
</thead>
<tbody>
<tr>
<td>birth</td>
<td>6 weeks</td>
</tr>
</tbody>
</table>

- 4 weeks for pregnancy
- 6 weeks to recover
- 12 weeks to bond

**FMLA (12 wks)/PDL (4 mo)**

**CFRA**
• It is unlawful for an employer to “interfere with, restrain, or deny the exercise of or the attempt to exercise” right to Supplemental Compensation.

• It is unlawful for an employer to “discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any person in retaliation for exercising rights to Supplemental Compensation” under the PPLO.

• Taking “adverse action” against employee within 90 days of filing a complaint with OLSE or a court alleging violation creates a rebuttable presumption that such action was retaliation.
• **Termination During Leave Period:** If employer terminates an employee during the PFL period, the employer's obligation to pay Supplemental Compensation shall continue for the remainder of the employee’s PFL period.

• **Termination Prior to Leave Period:** If employer terminates an employee prior to the leave period but within 90 days of request, the employer still is obligated to pay Supplemental Compensation, unless it can prove with “clear and convincing” evidence that termination was solely for a reason other than to avoid obligation to pay Supplemental Compensation.

ANTI-RETALIATION
 SECTION 3300H.4(B)(3)&(4)
I already provide paid parental leave; do I have to provide anything else?

*No, if existing parental leave policy provides an employee with **at least 6 weeks of fully paid parental leave**, which the employee can choose to take **consecutively or intermittently**, within any twelve-month period to **bond** with a new child.*
QUESTIONS?

Use the Q & A panel on the right side of the screen to type a question to the Host and Presenters.

Please remember that this webinar is being recorded.
CONTACT FOR MORE INFORMATION

http://sfgov.org/olse/paid-parental-leave-ordinance

Benjamin Weber  
City and County of San Francisco  
Office of Labor Standards Enforcement  
www.sfgov.org/olse  
pplo@sfgov.org  
415-554-4190  
(English, Spanish, Chinese, Tagalog)

Jenna Gerry 
Legal Aid at Work  
www.legalaidatwork.org  
Work & Family Helpline  
1-800-880-8047  
(English, Spanish, Chinese)