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
Overview of Today’s Webinar

- Overview of the Paid Parental Leave Ordinance
- Who is covered
- How to apply
- How to calculate what is owed to an employee
- How this interacts with other State and Federal laws
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
- Requires employers to supplement an employee’s state **Paid Family Leave** (PFL) benefits
- Provides employees **working in San Francisco** with **6 weeks fully paid** leave to bond with a new child (newborn, adoptive, or foster)
COVERED EMPLOYER

• Have Employee(s) Who Work in San Francisco
• **Employ Threshold Number of Employees:**
  - January 1, 2017  50+ employees
  - July 1, 2017  35+ employees
  - January 1, 2018  20+ employees

• Threshold Number of Employees include **all employees worldwide.** This means:
  - seasonal, permanent, temporary, part-time, full-time, etc.; and
  - both employees who work in and out of San Francisco

• **Government entities are not covered employers**
WHAT IF I HAVE A FLUCTUATING WORKFORCE?
PPLO LOOKBACK PERIOD

**Fluctuating Workforce:**
number of employees goes **up and down** from week to week

**Must** look at **average number** of employees in PPLO Lookback Period (12 weeks or 3 months prior to employee’s leave)

See Rule 2

**EXAMPLE**
- An employee’s first day of Paid Family Leave is **August 7, 2018**
- The employer at that time only has 19 employees but workforce goes up and down each week.

<table>
<thead>
<tr>
<th>Week</th>
<th>Number of Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>19 employees</td>
</tr>
<tr>
<td>2</td>
<td>23 employees</td>
</tr>
<tr>
<td>3</td>
<td>17 employees</td>
</tr>
<tr>
<td>4</td>
<td>20 employees</td>
</tr>
<tr>
<td>5</td>
<td>20 employees</td>
</tr>
<tr>
<td>6</td>
<td>25 employees</td>
</tr>
<tr>
<td>7</td>
<td>25 employees</td>
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<tr>
<td>8</td>
<td>22 employees</td>
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<tr>
<td>9</td>
<td>17 employees</td>
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<td>10</td>
<td>20 employees</td>
</tr>
<tr>
<td>11</td>
<td>25 employees</td>
</tr>
<tr>
<td>12</td>
<td>19 employees</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:

1. Post Notice

2. 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

3. Determine employee’s eligibility

4. 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 10)

5. Maintain Records
   
   All materials available on OLSE website
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 your covered employer

5. Apply for and receive California **Paid Family Leave (PFL)** benefits from the Employment Development Department (EDD)

**Government employees are not covered.**
4 STEPS TO APPLY FOR SF PAID PARENTAL LEAVE

#1
Apply for Paid Family Leave (PFL) through EDD

#2
Complete SF Paid Parental Leave Form (PPL Form)

#3
Submit SF PPL Form & EDD Notice of Computation to Employer

#4
Notify Employer When You Receive First PFL Payment

More Detailed Step-by-Step Guide Available on OLSE Website Shortly!
SAN FRANCISCO PAID PARENTAL LEAVE FORM (SF PPL FORM)

Available at: [http://sfgov.org/olse/paid-parental-leave-ordinance](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

• **55%** of weekly wage, up to $1,173 per week in 2017

• Benefit increases to **60%** or **70%**, depending on income, in **2018**

• *Both Parents Can Take at the Same (or different) Time*

• Can be taken **Intermittently** or all at once

• *Must be taken within 1 year of birth or placement of child in the home*

• One week waiting period
  • Not for birth mothers transitioning from State Disability Insurance (SDI) to PFL
  • Eliminated in 2018
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 PFL benefit and the Supplemental Compensation equals 100% of normal gross weekly wages.

- Employee’s total weekly benefits (EDD + Supplemental Compensation) are 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
### Calculation Example 1

Basic Calculation B – A = C

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDD Base Period Weekly Wage (A)</td>
<td>$1,000</td>
</tr>
<tr>
<td>PPLO Normal Weekly Wage (B)</td>
<td>$1,000</td>
</tr>
<tr>
<td><strong>(B) Normal Weekly Wage</strong></td>
<td>$1,000</td>
</tr>
<tr>
<td><strong>(A) EDD Weekly Benefit</strong></td>
<td>-$550</td>
</tr>
<tr>
<td><strong>(C) Weekly Supplemental Compensation</strong></td>
<td>$450</td>
</tr>
</tbody>
</table>

\[450 \times 6 \text{ Weeks} = $2,700\] (total amount employer must pay to employee)
Calculation 1 Weekly Chart

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

Basic Calculation B – A = C

EDD Base Period Weekly Wage (A) = $1,000
PPLO Normal Weekly Wage (B) = $1,100

(B) Normal Weekly Wage $1,100
(A) EDD Weekly Benefit - $550
(C) Weekly Supplemental Compensation $550

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

EDD Weekly Benefit Amount = $550
Supplemental Compensation = $550
Total Benefit = $1,100
Calculation Example 3

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

$550 \times 6 \text{ weeks} = $\text{\textbf{3,300}} \text{ (total amount employer must pay to employee)}

$2,200 = 2 \text{ weeks} \text{ vacation value (if available and employee agrees)}

$3,300 - $2,200 = $1,100 \text{ or actual cost to employer after vacation value}

$2,200 (vacation value) ÷ $550 (weekly amount) = 4 \text{ weeks} \text{ of Supplemental Compensation covered by vacation value}
Calculation 3 Example Sources of Funds = $1,100 Weekly

Two Weeks of Vacation Value Integrated with EDD Wage Replacement

Week 1: $550
Week 2: $550
Week 3: $550
Week 4: $550
Week 5: $550
Week 6: $550

Legend:
- EDD
- Employer
- Vacation
Supplemental Compensation Sources - Six Weeks

6 Weeks of Supplemental Compensation Totals by Source

- EDD (6 wks × $550)
- Employer (2 wks × $550)
- Vacation (4 wks × $550)

$3,300, 50%
$2,200, 33%
$1,100, 17%
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:
- Retain records of supplemental compensation paid 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

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

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:

FMLA (12 wks)/PDL (4 mo)

CFRA

SDI

PFL/PPL Supp. Comp.

birth

6 weeks

4 weeks for pregnancy

6 weeks to recover

12 weeks to bond
WHAT IF MY EMPLOYEE DOES NOT QUALIFY FOR FMLA/CFRA?

- **No Retaliation Under Ordinance:**
  Although the PPLO does not explicitly require employer to provide an employee with 6 weeks off to bond with a new child, it contains very robust anti-retaliation provisions, which prohibit retaliating against an employee for exercising any of his/her rights under the ordinance.

- **Employer Must Still Pay Supplemental Compensation:**
  If an employer terminates an employee during his/her leave period or within 90 days of notifying employer of intent to apply of /use PFL, employer must still pay employee Supplemental Compensation for his/her entire leave.
ANTI-RETALIATION
SECTION 3300H.7

• 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.
Existing Paid Parental Leave Policy – Does it Comply?

Maybe. Existing Plans MUST:

• Provide 6 weeks of fully paid parental leave for bonding in any 12 month period
• Be available for any covered employee
• Can be integrated with EDD wage replacement benefits or be fully funded by the employer
• Allow employee to choose to take the leave consecutively or intermittently
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

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