Thank you for joining us! We will begin shortly.

This webinar will be recorded.

Please mute your phone when you are not asking a question.
Use (keypad *6) to mute or unmute
OVERVIEW OF TODAY’S WEBINAR

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 Presentation

- What is the Ordinance
- Who is covered
- How to apply
- How this interacts with other State and Federal laws
- How to calculate what is owed to an employee
- 2018 Changes
What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 21, 2016
- First of its kind in the United States
- Requires employers to supplement an employee’s California Paid Family Leave (PFL) benefits
- Provides eligible employees working in San Francisco with 6 weeks fully paid leave to bond with a new child (newborn, adoptive, or foster)
COVERED EMPLOYER

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

- **Employ Threshold Number of Employees:**
  - January 1, 2018  
  - 20+ employees worldwide

- An Employer with fluctuating workforce – number of employees goes **up and down** over time – should average employees over PPLO Lookback period (12 weeks or 3 months – See Slide 7)

**Note:** Government entities are not covered employers
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)

Note: Government employees are not covered.
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.
*PPLO Lookback Period is **February 6, 2017 – April 30, 2017** (12 weeks prior to May 1, 2017).
PPLO LOOKBACK PERIOD
FOR BIRTH PARENTS TRANSITIONING FROM PREGNANCY DISABILITY LEAVE

*PPLO Lookback Period is February 6, 2017 – April 30, 2017 (12 weeks prior to May 1, 2017).
4 STEPS FOR EMPLOYERS

#1
Give Notice to Employees

#2
Give Employee(s) SF Paid Parental Leave Form (SF PPL Form)

#3
Determine Employee's Eligibility

#4
Calculate & Pay Supplemental Compensation

More Detailed Step-by-Step Guide Available on OLSE Website
4 STEPS FOR EMPLOYEES

#1
Apply for CA Paid Family Leave (PFL) Benefits

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

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

#4
Notify Employer When You Receive First PFL Payment

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

* Give Form to Employer, NOT the OLSE
INTERACTION WITH STATE & FEDERAL LAWS
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 for **claim dates** in 2017
- 60% or 70% of weekly wage, up to $1,216 per week for **claim dates** 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**
- **In 2018 no more one week waiting period.**
CALIFORNIA PREGNANCY DISABILITY LEAVE (PDL)

Up to 4 months job-protected, unpaid leave, while disabled by pregnancy, childbirth or related condition

- Applies to all employers with 5+ employees
- Can be used for prenatal care
- Can be taken intermittently
- Continuation of health benefits

Normal Pregnancy: disability is 4 weeks before due date and 6 to 8 weeks after delivery.

* PPLO Obligations Start After PDL
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 parents, bonding leave does not start until after they have recovered from pregnancy disability.*

**PFL/PPLO Benefits Run Concurrently**
NEW PARENT LEAVE ACT (NPLA)  
*STARTING JAN. 1, 2018

12 weeks of job-protected leave to:

• Bond with a new child (including adoptive and foster children)

Eligibility

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

*For birth parents, bonding leave does not start until after they have recovered from pregnancy disability.

**PFL/PPLO Benefits Run Concurrently with NPLA
HOW IT ALL FITS TOGETHER:
JOB-PROTECTION AND WAGE REPLACEMENT FOR NON-BIRTH PARENTS

FMLA/CFRA or NPLA Eligible Non-Birth Parent working in San Francisco:

- **Paid Family Leave/PPLO Supp. Comp.**
  - **6 weeks** of 100% wages, up to a cap

- **BIRTH**
  - **12 weeks** to bond and continued health insurance

Family Medical Leave Act/
California Family Rights Act/
New Parent Leave Act
HOW IT ALL FITS TOGETHER:
JOB-PROTECTION AND WAGE REPLACEMENT FOR A “NORMAL” PREGNANCY

FMLA/CFRA or NPLA Eligible Birth Parent working in San Francisco

State Disability Insurance

10 Weeks of 60% or 70% Wages

4 Weeks Prior to due date

BIRTH


6 Weeks of 100% Wages, up to a cap

6 Weeks to Recover

12 Weeks to Bond and continued health insurance

Pregnancy Disability Leave/ Family Medical Leave Act

California Family Rights Act/ New Parent Leave Act
WHAT IF MY EMPLOYEE DOES NOT QUALIFY FOR FMLA/CFRA OR NPLA?

- **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. 3300H.7

- **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 for /use PFL, employer must still pay employee Supplemental Compensation for his/her entire leave. 3300H.4(b) 3 and 4
Existing Paid Parental Leave Policy – Does it Comply?

**Existing Plans MUST:**

- Provide 6 weeks of fully paid parental leave **for bonding** in the 12 months after birth of child or foster placement or adoption.
- Be available **for any covered employee**
- Be either fully funded by the employer or integrated with EDD wage replacement benefits
- Allow **employee to choose** to take the leave consecutively or intermittently
Supplemental Compensation
The Basics

• Sum of the EDD PFL benefit and the Supplemental Compensation equals 100% of normal gross weekly wages, capped by the ordinance.
  • $2,133 cap for a 2017 claim effective date
  • $2,027 cap for a 2018 claim effective date
• Employers may require employee to agree to use up to 2 weeks of accrued, unused vacation to cover Supplemental Compensation payments (3300H.4(b)(5))
• For Paid Time Off (PTO) Plans that do not distinguish between sick and vacation, the employer may require the employee to agree to use up to two weeks accrued PTO only in excess of 72 hours (See FAQs)
• Tips or gratuities are not included in Supplemental Compensation (Rule 7)
• 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 based on the employee’s weekly wages in the EDD base period - 5 to 18 months in the past (see EDD Chart on slide 24)
- **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 and claim effective date
Where is the EDD Weekly Benefit Amount?

Sample EDD Notice of Computation

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

Electronic Benefit Payment Notice contains:
- Pay period(s) and amount
- See Rule 5.2
PAID FAMILY LEAVE: EMPLOYEE’S EDD BASE PERIOD

How EDD Determines an Employee’s Base Period

- 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% or 60% of current normal weekly wages.
Calculation Example 1

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = $1,000
PPLO Normal Weekly Wage = $1,000

(A) Normal Weekly Wage $1,000
(B) EDD Weekly Benefit - $600
(C) Weekly Supplemental Compensation $400

$400 \times 6\text{ Weeks} = $2,400 (total amount employer must pay to employee)
Calculation 1 Weekly Chart

EDD Weekly Benefit Amount = $600
Supplemental Compensation = $400
Total Benefit = $1,000

- EDD: $600, 60%
- Employer: $400, 40%

Total Benefit = $1,000
Calculation Example 2

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = $1,000
PPLO Normal Weekly Wage = $1,100

(A) Normal Weekly Wage $1,100
(B) EDD Weekly Benefit $-600
(C) Weekly Supplemental Compensation $500

$500 \times 6 \text{ weeks} = $3,000 \text{ (total amount employer must pay to employee)}$
Calculation 2 Weekly Chart

EDD Weekly Benefit Amount = $600
Supplemental Compensation = $500
Total Benefit = $1,100
Calculation Example 3 – Vacation Integration

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = $1,000
PPLO Normal Weekly Wage = $1,100

(A) Normal Weekly Wage $1,100
(B) EDD Weekly Benefit - $600
(C) Weekly Supplemental Compensation $500

$500 \times 6 \text{ weeks} = \$3,000$ (total amount employer must pay to employee)

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

$3,000 - $2,200 = \$800$ or actual \textit{cost to employer} after vacation value

$2,200 \text{ (vacation value)} \div \$500 \text{ (weekly amount)} = \textit{4.4 weeks} \text{ of Supplemental Compensation covered by vacation value}$
Calculation 3 Example Sources of Funds = $1,100 Weekly

Two Weeks of Vacation Value Integrated with EDD Wage Replacement

Week 1: $600 (EDD), $500 (Vacation)
Week 2: $600 (EDD), $500 (Vacation)
Week 3: $600 (EDD), $500 (Vacation)
Week 4: $600 (EDD), $500 (Vacation), $300 (Employer)
Week 5: $600 (EDD), $200 (Vacation), $300 (Employer)
Week 6: $600 (EDD), $500 (Vacation)
Supplemental Compensation Sources - Six Weeks

6 Weeks of Supplemental Compensation Totals by Source

- EDD (6 wks × $600) = $3,600, 55%
- Employer (1.6 wks × $500) = $800, 12%
- Vacation (4.4 wks × $500) = $2,200, 33%
Calculation Example 4  
Two Employers

- EDD Base Weekly Wage = $1,000
- PPLO Normal Weekly Wage = $1,100

Each employer pays the portion of supplemental compensation corresponding to the portion of weekly wages

<table>
<thead>
<tr>
<th>Weekly Wage Employer 1 (@70%)</th>
<th>$770</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly Wage Employer 2 (@30%)</td>
<td>+$330</td>
</tr>
<tr>
<td>Total Weekly Wage</td>
<td>$1,100</td>
</tr>
<tr>
<td>EDD Weekly Wage Replacement</td>
<td>-$600</td>
</tr>
<tr>
<td>Remainder</td>
<td>$500</td>
</tr>
<tr>
<td>Employer 1 Supplemental</td>
<td>$350</td>
</tr>
<tr>
<td>Employer 2 Supplemental</td>
<td>$150</td>
</tr>
</tbody>
</table>
Calculation 4

Sources – Two Employers

- EDD $600
- ER 1 $350
- ER 2 $150

EDD @ 60% of 1000
Employer 1 @ 70% of 500
Employer 2 @ 30% of 500
Calculating Normal Weekly Wages When Wages Fluctuate (with Tips)

- Example of fluctuating wages and tips over 6 bi-weekly pay periods:

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</thead>
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<td>$1,300</td>
<td>$1,500</td>
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<tr>
<td>Tips</td>
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<td>$890</td>
<td>$980</td>
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<td>$980</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

Grand total: $13,200

- Divide sum of $13,200 by 12 (weeks) for normal weekly wage ($1100)
  - Average Weekly Wages = $600 ($7,200/12)
  - Average Weekly Tips = $500 ($6,000/12)
Calculation Example 5 – Tips
Single Employer

Supplemental Compensation is the percentage of Normal Weekly Wages from only wages (no tips) multiplied by the remainder.

PPLO Normal Weekly Wage = $1100 ($600 wages + $500 tips)

| A) PPLO Normal Weekly Wage (wages and tips) | $1,100 |
| B) EDD Weekly Benefit                       | $600  |
| C) Remainder                                 | $500  |
| D) Wages Only ÷ Normal Weekly Wage           | $600 ÷ $1100 = 55% |
| E) Supplemental Compensation = D × C         | 55% × $500 = $275 |

$275 × 6 Weeks = $1,650 (total amount employer must pay to employee)
Calculation 5 - Tips Weekly Chart

Normal Weekly Wage = $1,100
EDD Weekly Benefit Amount = $600
Supplemental Compensation = $275
Total Benefit ≠ Normal Weekly Wage = $875
Supplemental Compensation Notes

- Maximum weekly benefit under the Ordinance (EDD Benefit + Supplemental Compensation) is $2,133 for 2017 and $2,027 for 2018 (3300H.4(b)(2))
  - EDD Weekly Maximum Benefit for:
    - 2017 claim effective date = $1,173
    - 2018 claim effective date = $1,216
  - Employers may always pay more than the ordinance requires but not more than normal weekly wage
- If no accrued vacation or paid time off is available, the employer must still pay the full amount of supplemental compensation owed
- Retain records of supplemental compensation paid (3300H.6)
January 1, 2018 Reminders

- Employers with 20 or more employees are covered by SFPPLO
- There is no more waiting period prior to receiving PFL benefits
- Claim effective dates have different caps - 2017 ($2,133 cap) and 2018 ($2,027 cap).

- Excel Calculators & Calculation instructions: http://sfgov.org/pplo
  - There is a 2017 and 2018 calculator
QUESTIONS?

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

This webinar will be recorded and available.
CONTACT FOR MORE INFORMATION

http://sfgov.org/PPLO

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