



San Francisco Labor Laws Under COVID-19

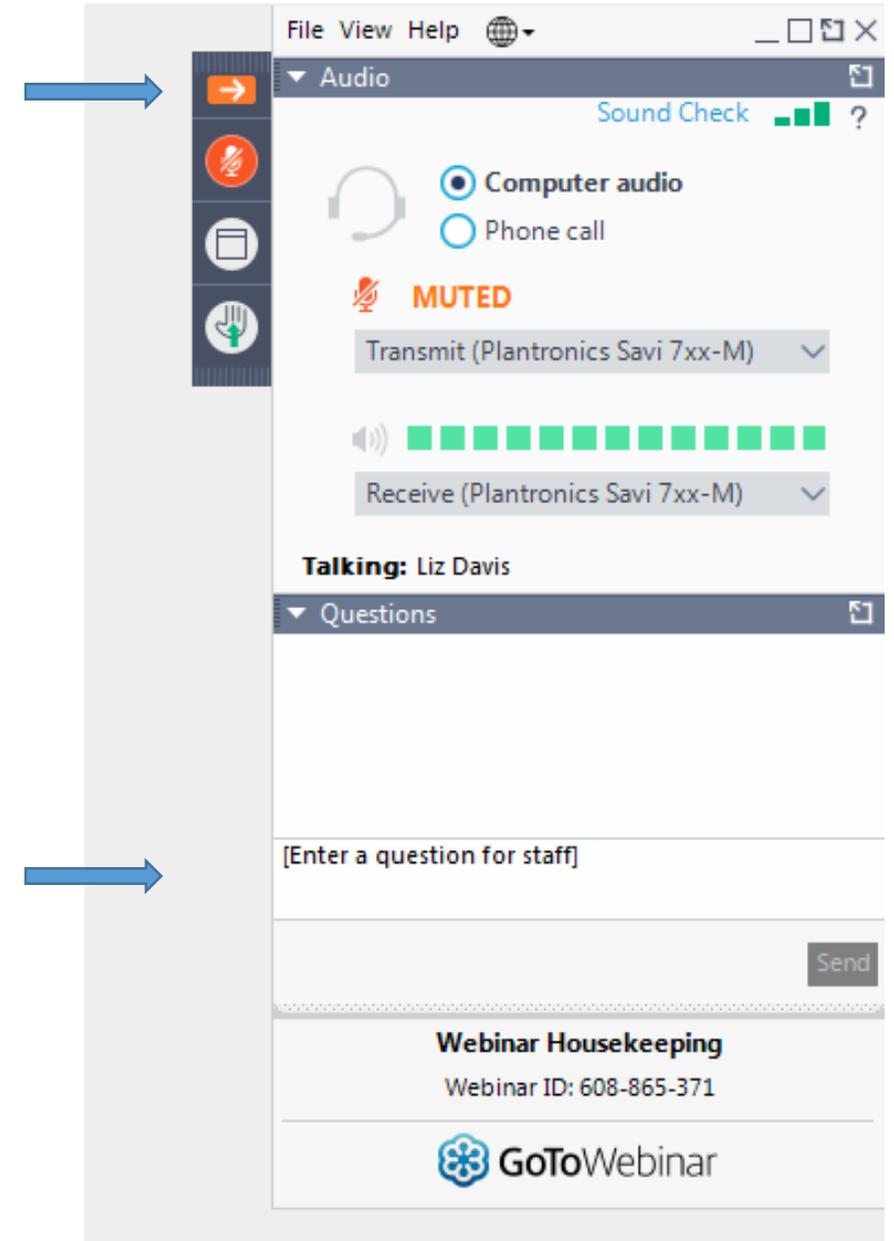
August 19, 2020



Office of Labor Standards Enforcement

Webinar Housekeeping

- You should see a control panel like this on the right side of your screen
- The panel should minimize automatically when you aren't using it. To minimize or re-open, click the orange arrow.
- Use the “Questions” box to ask your questions during the presentation.



San Francisco Office of Labor Standards Enforcement

- OLSE was established in 2001 as the first municipal labor standards enforcement agency in the nation.
- OLSE enforces laws that apply to City contractors and lessees (e.g., prevailing wage, minimum compensation ordinance) and laws that apply to all employers in San Francisco (e.g., minimum wage, paid sick leave).
- Investigations & enforcement; worker outreach; technical assistance



Today's Topics

- Health Care Security Ordinance
Rose Auguste, OLSE
- Public Health Emergency Leave
Linshao Chin, OLSE
- Employee Protections Ordinance
Beverly Popek, OLSE
- State and Federal Leave Programs
Katie Wutchiett, Legal Aid at Work





Health Care Security Ordinance (HCSO)

Rose Auguste
Compliance Officer
Office of Labor Standards Enforcement
(OLSE)

What is the Health Care Security Ordinance (HCSO)?

The HCSO is a San Francisco labor law that requires covered employers to make health care expenditures (spend money) on behalf of covered employees for health care services

Covered Employers

- Minimum size threshold based on total number of persons performing work in ALL locations throughout the world, not only San Francisco
 - For-profit employers: 20+ persons perform work per quarter
 - Nonprofit employers: 50+ persons perform work per quarter

Employer Spending Requirement

Employer Size	2019	2020
100+ Workers	\$2.93/hr	\$3.08/hr
20-99 Workers	\$1.95/hr	\$2.05/hr

Health Care Expenditure Rates Change Annually

Employer Spending Requirement

Options to satisfy ESR:

- 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

Covered Employees

- Employed for at least 90 calendar days for your organization
- Work on average at least 8 hours per week in San Francisco in a quarter

NOT COVERED:

- Managers/Supervisors. Must satisfy (1) job duties test and (2) salary requirement.
- Medicare or TRICARE
- Employees covered by the Health Care Accountability Ordinance (HCAO)
- Employees who are receiving health care services *through another employer* and who voluntarily sign an OLSE Employee Waiver Form

Common Compliance Issues

- Failing to make any health care expenditures for anyone
- Spending too little for health insurance
- Disregarding part time workers who work 8+ hours/week and may not qualify for employer's health insurance program
- Failing to make health care expenditures for employees with other coverage

Frequently Asked Questions During COVID-19

- *My hours have been cut and/or I was recently laid off. Am I still covered under the HCSO?*
- *In light of COVID-19, is the OLSE authorizing employer payment extensions for the quarterly payments?*
- *I've been working remote outside of CCSF since San Francisco's Shelter in Place order. Am I covered under the HCSO?*

HCSO Resources

- [Sign up](#) for HCSO updates
- OLSE/HCSO [Website](#)
 - Rules & Regulations
 - Administrative Guidance
 - OLSE Official Notices
 - Employee Voluntary Waiver Form
- Email us: HCSO@sfgov.org
- Call us: (415) 554-7892



Public Health Emergency Leave Ordinance (PHELO)

Linshao Chin, OLSE Compliance Officer



Office of Labor Standards Enforcement

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 (PHEL) to each employee who performs work in San Francisco.
- The ordinance will **expire on August 16, 2020 unless reenacted by the Board of Supervisors**, or upon the termination of the Public Health Emergency, whichever occurs first.



Federal and State Supplemental Leave

- **Families First Coronavirus Response Act (FFCRA or Act)** requires companies with fewer than 500 employees to provide paid sick leave or expanded family and medical leave.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

- **CA Supplemental Paid Sick Leave for Food Sector Workers at Companies with 500 or More Employees (Executive Order N-51-20)**

<https://www.dir.ca.gov/dlse/FAQ-for-PSL.html>



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” - *(1) 60 years old and older; (2) have certain health conditions such as heart disease, lung disease, diabetes, kidney disease, and weakened immune systems; or, (3) who are pregnant or were pregnant in the last two weeks.*

(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

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

- (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.



PHEL 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:

- The employee has been advised by a health care provider to self-quarantine.
- 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.
- Employees who were part-time employees as of February 25, 2020 are entitled to the number of Public Health Emergency Leave hours equal to the average number of hours over a two-week period that the employee was scheduled over the previous six months ending on February 25, 2020, including hours for which the employee took leave of any type.



Amount of Public Health Emergency Leave available to employees

- For employees hired after February 25, 2020, the number of hours of Public Health Emergency Leave to which they are entitled is equal to the number of hours that the employee worked, on average, over a two-week period between the date of hire and the date upon which the leave is taken, including hours for which the employee took leave of any type.
- 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





Employee Protections Ordinance (EPO)



Office of Labor Standards Enforcement

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 August 31, 2020 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?

- 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.



San Francisco Labor Laws Under COVID-19

www.sfgov.org/olse

