

# Office Hours

The San Francisco Paid  
Parental Leave Ordinance:  
Complying with the City's New  
2017 Paid Leave Law

Brian Gilmore  
Lead Benefits Counsel, VP

JANUARY 19, 2017

[Audio](#)

# SF PPLO: The Big Picture

## What is the SF PPLO?

### San Francisco Paid Parental Leave Ordinance:

- As of 2017, San Francisco is the first city to require employer-paid parental leave
- Designed to supplement the amount already available through California's Paid Family Leave program (CA PFL) for new child bonding

## What are the Main Topics Covered?

- Effective date determined by employer size
- Which SF employees are covered?
- How much must employees receive under the SF PPLO—and who pays?
- Timing of SF PPL payment difference for birth mothers
- Maximum benefit amount
- Recordkeeping and notice requirements

## New SF PPLO is in Addition to Other SF Ordinances Already in Effect

- San Francisco Health Care Security Ordinance (SF HCSO) full Office Hours webinar recording available here:

<http://www.theabdteam.com/sites/default/files/content/presentation/file/ABD%20Office%20Hours--SF%20HCSO%20final2.pdf>

A group of five business professionals (three men and two women) are gathered around a conference table in a meeting room. They are looking at documents and talking. The scene is dimly lit, with a dark overlay. The text is overlaid on the left side of the image.

Effective Date:  
**Determined by Employer  
Size (Worldwide)**

# Tiered Implementation Dates

Large Employers Must Comply as of 1/1/17

**Number of Employees  
Regardless of Location:**

**(Includes Entire Controlled Group)**

**50+ Employees**

**January 1, 2017**

**35+ Employees**

**July 1, 2017**

**20+ Employees**

**January 1, 2018**

A person's hands are shown holding a pen over a document. The document features a bar chart with several bars of varying heights. The entire scene is overlaid with a semi-transparent red gradient. The text 'Covered Employees' is in a light pink color, and 'Who is Eligible?' is in white.

Covered Employees  
**Who is Eligible?**

# Covered Employees

Any person (including part-time or temp) employed by a Covered Employer who meets all of the following four requirements:

- 1. Commenced employment with the Covered Employer at least **180 days** prior to the start date of the leave**
  - Re-hires must start over upon gap in employment of one year
- 2. Performs at least **8 hours of work per week** in San Francisco**
  - Includes work from home!
- 3. At least **40% of the employee's total weekly hours** for the employer are in San Francisco**
  - Different from SF HCSO!
- 4. Eligible for California Paid Family Leave for **new child bonding****
  - Note that period of PDL/SDI for birthing mother prior to receiving PFL does not count

# The 8 Hour & 40% Rule Specifics

Special rules apply where the employee's hours fluctuate from week to week to apply an average.

## Three-Month Lookback Period Average

- Will apply an average of the employee's weekly hours for the covered employer over the three-month period immediately preceding the start of the PFL new child bonding period
- Will use the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods to calculate the average

## Leave Rules

- If the employee was on leave during any weeks in that three-month look-back period, those pay periods will not be counted in determining the average
- Rather, will use prior active pay periods to complete the three-month look back
- However, in no case will the look-back consider pay periods earlier than 26 weeks prior to the PFL period



Qualifying Leave  
**New Child Bonding**

# PPLO Applies for Parental Leave

Does Not Apply for All Forms of CA PFL

Three Events Where SF PPLO Applies as Qualifying Leave:

**A**

**Birth**

**B**

**Adoption**

**C**

**Foster Care Placement**



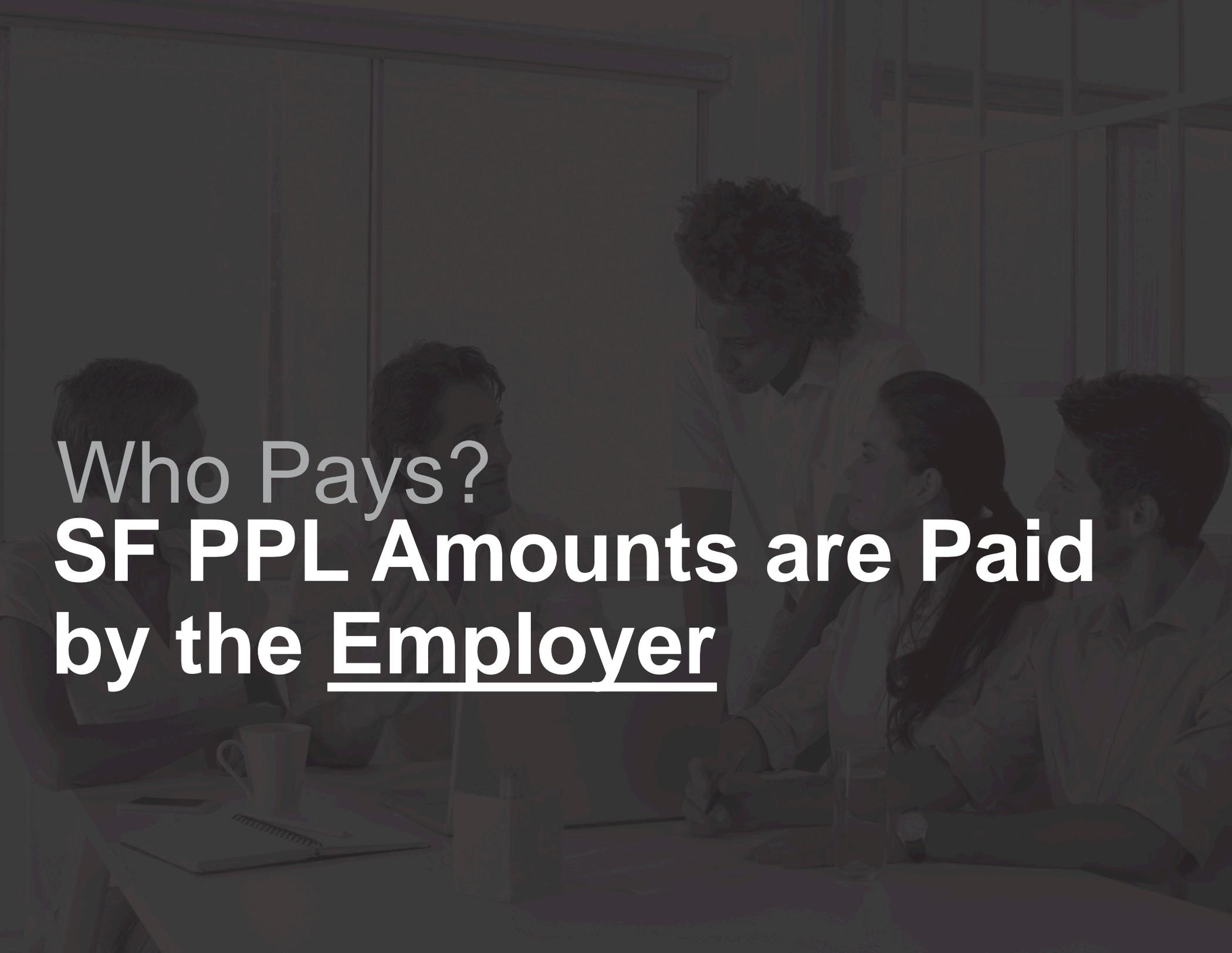
Payment Amount  
**Integrated with PFL**

# Payment Amount

SF PPL pays 45% of the employee's average weekly wages during the PFL new child bonding period.

The maximum benefit is based of the PFL cap at an annual salary of \$110,902 in 2017.

	2017 Weekly Amount	2017 6-Week Maximum
<b>California PFL Payment Amount</b>	55% of Earnings <u>Maximum Benefit:</u> \$1,173	55% of Earnings x 6 <u>Maximum Benefit:</u> \$7,038
<b>San Francisco PPL Payment Amount</b>	45% of Earnings <u>Maximum Amount:</u> \$960	45% of Earnings x 6 <u>Maximum Amount:</u> \$5,760
<b><u>Maximum Total Payment Amount (PFL+PPL)</u></b>	\$2,133 Per Week	\$12,798 Per 6-Week New Child Bonding Leave

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Who Pays?

**SF PPL Amounts are Paid  
by the Employer**

# Employer Pays for SF PPL: Different from CA PFL!

Unlike the CA PFL structure, SF PPL requires the employer to pay the employee during the leave.

## California Paid Family Leave:

Paid by the Employee/CA EDD

### **Specifics:**

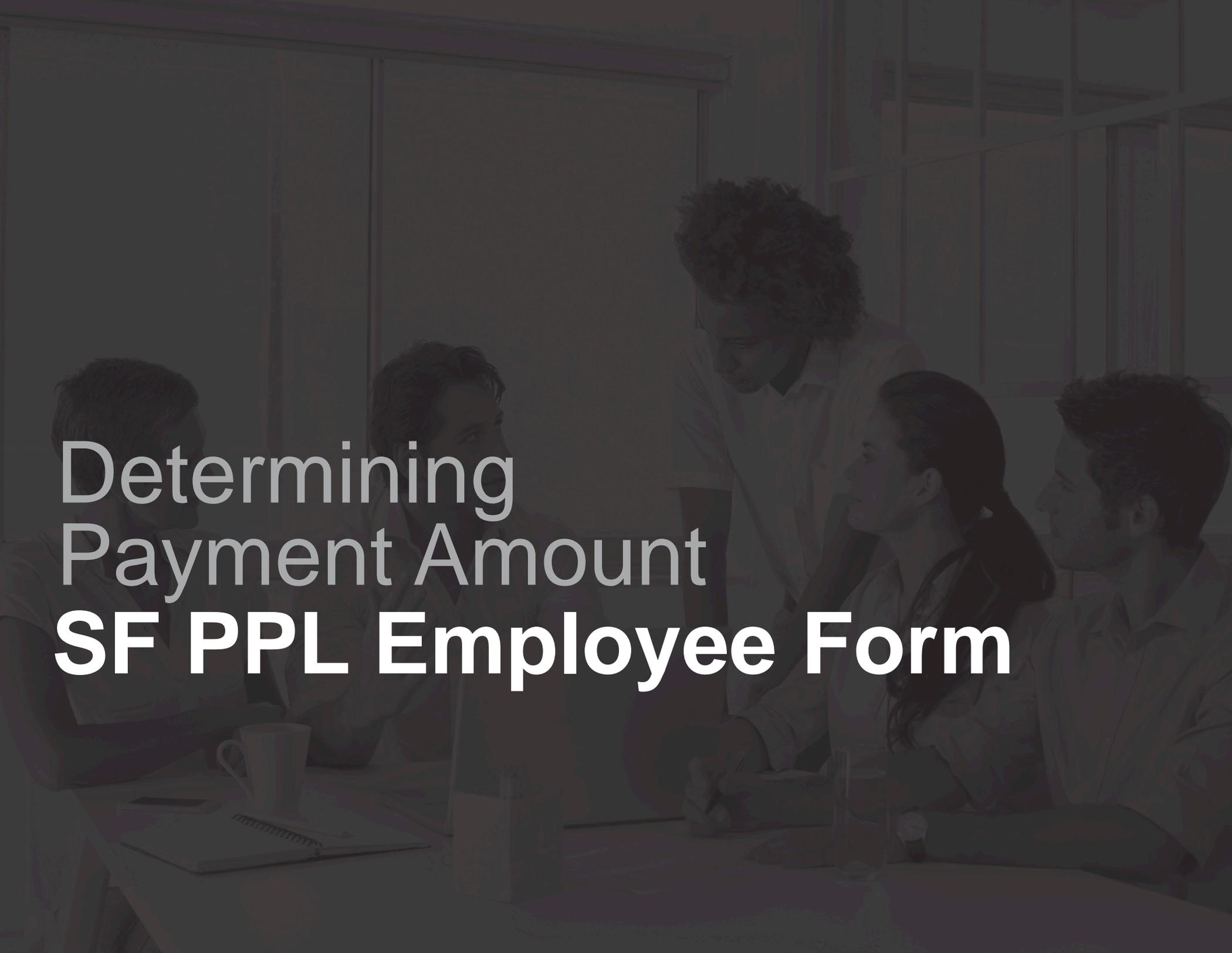
- Funded by employee payroll tax of 0.9% of wages (up to \$110,902 2017 cap)
- Payroll tax funds both SDI and PFL
- Employees apply to CA EDD for PFL benefits
- Benefits are paid through the EDD (not the employer)

## San Francisco Paid Parental

Leave: Paid by the Employer

### **Specifics:**

- There is no employee payroll tax or other revenue source for SF PPL
- Rather the employer is directly responsible for making PPL payments
- The PPL is therefore both funded and paid by the employer
- Employers will need to budget for this significant new expense!

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# Determining Payment Amount **SF PPL Employee Form**

# The PPL Form

Available at: <http://sfgov.org/olse/paid-parental-leave-ordinance>

CITY AND COUNTY OF SAN FRANCISCO  
 DEPARTMENT OF ADMINISTRATIVE SERVICES  
 OFFICE OF LABOR STANDARDS ENFORCEMENT  
 PATRICK MULLIGAN, DIRECTOR

EDWIN M. LEE, MAYOR



## SAN FRANCISCO PAID PARENTAL LEAVE FORM

Complete one form for each employer. If you have only one employer, you only need to complete Sections 1, 2, and 3 of this form. If you have more than one employer, fill out Section 4 on page 2.

### Section 1. Employment Information

Employee

Name/Address:

(Please print) Street City State Zip

Employer:

(Name)

**Section 2. Employer Notification.** For prompt payment of benefits, select both options. Check all that apply:

Option 1.  I am submitting a copy of my EDD Notice of Computation to my employer(s); and/ or

Option 2.  I have checked the box on my EDD Claim for Paid Family Leave (DE 2501F) granting permission to disclose my benefit payment to my employer(s).

**Section 3. Reimbursement Agreement.** In order to receive Supplemental Compensation under the San Francisco Paid Parental Leave Ordinance (PPLO), employees must agree in writing to reimburse their employers if they voluntarily separate from employment within 90 days of the end of their leave period. Failure to sign this agreement renders you ineligible to receive Supplemental Compensation under the PPLO. [See S.F. Police Code Sec. 3300H.4(e).]

I, \_\_\_\_\_ [full name], hereby agree to reimburse the full amount of Supplemental Compensation received from any Covered Employer(s) under the San Francisco Paid Parental Leave Ordinance if I voluntarily separate from employment within 90 days from the end of my leave period and if my employer requests such reimbursement in writing.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If you only have one employer, this form is complete.

City Hall, Room 430 1 Dr. Carlton B. Goodlett Place Tel. (415) 554-6235 Fax (415) 554-6291 San Francisco CA 94102-4685

### Only complete Section 4 if you have more than one employer

**Section 4. Multiple Employers.** If you have more than one employer, you must complete either Option A or Option B of this section, or your employers will not be required to provide Supplemental Compensation under the PPLO.

**Option A:** Ask each employer for your normal gross weekly wages and reported tips, if any, and enter the amount in the grid for each employer:

Employer	Normal Gross Weekly Wages	Average Weekly Tips
1		
2		
3		

**Option B:** For each employer, fill in your pre-tax earnings below. Include information for the 6 bi-weekly, 6 semi-monthly or 12 weekly pay periods that immediately precede your leave period. If you were on unpaid or partially paid leave for any of those pay periods, do not include those pay periods in the grid. Instead, include earlier pay periods during which you were fully paid. Provide 6 total – or 12 total – in the chart for each employer.

Employer 1 \_\_\_\_\_ Employer 2 \_\_\_\_\_ Employer 3 \_\_\_\_\_

Pay Period	Start Date	Wages	Tips	Pay Period	Start Date	Wages	Tips	Pay Period	Start Date	Wages	Tips
1				1				1			
2				2				2			
3				3				3			
4				4				4			
5				5				5			
6				6				6			
7				7				7			
8				8				8			
9				9				9			
10				10				10			
11				11				11			
12				12				12			

I declare under penalty of perjury that the foregoing wage and employer information is true and correct.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Your employer has the right to request proof of wages from other employers listed above.

**SUBMIT A COMPLETED FORM TO EACH OF YOUR EMPLOYERS**

# Employer PPL Form Responsibilities

1. Employers are encouraged to provide the PPL Form to **all current employees and all new employees** going forward
2. Employers are required to provide the PPL Form to all **employees upon notice of potential qualifying leave**
  - Must be provided within a reasonable period of time after notice
  - Includes notice of expecting newborn, adopted or foster child
  - Also includes upon any inquiry by employee of PPLO rights
3. **Must provide translated versions of the PPL Form where 5% of workforce speak non-English language**
  - Includes any facility or establishment of employer
  - OLSE will make form available in Chinese, Spanish, Tagalog
  - Employer's responsibility for other languages
4. For **intermittent leave**, employer must provide PPL form before each period of new child bonding PFL leave

# Employee Has Two Options:

Employer must have information from the EDD that describes the employee's PFL benefit amount to determine appropriate PPL amount. The PPLO provides two options. **The OLSE strongly recommends that the employee choose both options for fastest payment.**

## **Option 1: Provide the EDD “Notice of Computation” Form**

### **Specifics:**

- When employee applies for PFL, EDD will send this form to employee (Form DE 429D)
- Sets forth expected weekly benefit amount for duration of PFL
- Failure to choose this option may delay payment because employer would be required to contact EDD (EDD may not respond promptly)

## **Option 2: Grant Permission to Disclose PFL Benefit to Employer**

### **Specifics:**

- “Claim for Paid Family Leave” form includes option for EDD to disclose benefit amount to employer (Form DE 2501F)
- Employer must then reach out to EDD to request benefit amount
- Failure to choose this option may result in delay payment because employer cannot access benefit information from the EDD



# Failure to Return to Work: Employee Must Reimburse Employer

## PPL Form Includes Reimbursement Requiring

- Applies where the employee voluntarily separates from employment (*i.e.*, quits) within 90 days of the end of the leave period
- Requires the employee to reimburse the employer for the full amount of the PPL paid by the employer
- Employer must request the reimbursement in writing to trigger the requirement
- **Reality Check:** How would you actually enforce this reimbursement requirement?

## Example

- Finn (a covered employee) has a new child and receives the full six weeks of PPL from his covered employer, the First Order
- He never returns to work after the leave period (joins a rival enterprise)

## Result

- As long as the First Order makes the request in writing, Finn must repay the full six weeks of PPL he received
- Maybe the First Order could withhold the amount from his final paycheck (if any)—but check with employment counsel to confirm if any legal issues
- Otherwise, would an employer sue a former employee or send it as a debt to collections to enforce the reimbursement requirement? Seems unlikely!

A person's hands are shown holding a pen over a laptop screen. The laptop screen displays a bar chart with several bars of varying heights. The background is a solid magenta color.

Timing Issue

**Birth Mother Pregnancy  
Disability Leave Period**

# PPL Not Available Prior to PFL

New birth mothers will have a period of Pregnancy Disability Leave (PDL) where they receive SDI. This is typically six weeks after birth (eight weeks for c-section), but can be up to four months. PPL cannot be paid during this PDL/SDI period. It must wait until PFL.

## **Birth Mother: Must Complete PDL/SDI Period Prior to PFL Baby Bonding for PPL Eligibility**

### **Specifics:**

- The period of PDL entitles the employee to SDI benefits for the period of disability
- PPL is not available during the PDL/SDI period!
- Upon exhausting the PDL/SDI period, EDD will automatically send PFL claim form to employee
- No new waiting period in transition from SDI to baby bonding PFL

## **Non-Birthing Parent: PFL/PPL Benefits Begin Immediately (After a 7-Day Waiting Period)**

### **Specifics:**

- Individuals who have a new child without giving birth do not have a period of disability (no PDL/SDI)
- Includes a new father, a new non-birthing mother in same-sex relationship, a new parent via surrogacy, or a new parent via adoption or foster care
- PFL/PPL new child bonding period begins after 7-day waiting period



Examples

**PPLO Pain Points**

# Example #1: New Birth Mother

## Example

- Covered employer Saberworks with 50+ employees has two covered employees who have new children born on New Year's Day (January 1, 2017)
- Employee #1: Shmi gives birth to Anakin
- Employee #2: Han is the father of a new child Ben

## Employee #1: Shmi Result

- Shmi will have a period of PDL during which she receives SDI
- In this case the PDL/SDI period is six weeks
- If Shmi remains on leave at the end of the PDL/SDI period, she can transition to PFL for baby bonding beginning week seven (assumes Shmi satisfied 7-day waiting period for benefits prior to birth)
- **No option to pay PPL to Shmi in the six-week PDL/SDI period prior to PFL baby bonding period**
  - From the SF OLSE: *“This would not comply with the ordinance or its intent. The San Francisco Paid Parental Leave Ordinance is only for New Child Bonding and built on the CAPFL for bonding, not disability. The supplemental compensation payments are to be made for the bonding period to comply with the ordinance.”*

# Example #2:

## New Non-Birthing Parent

### Example

- Covered employer Saberworks with 50+ employees has two covered employees who have new children born on New Year's Day (January 1, 2017)
- Employee #1: Shmi gives birth to Anakin
- Employee #2: Han is the father of a new child Ben

### Employee #2: Han Result

- Han is not a birthing mother, so he is not disabled
- This means he goes straight to PFL for baby bonding (after 7-day waiting period)
- Han will therefore be eligible for PPL from Saberworks shortly after the birth
- Note that this is different from Shmi, who must wait until her disability period has ended to receive PPL
- **Weird result:** Unless Saberworks chooses to provide additional pay to Shmi and other new SF birthing mother employees during the PDL/SDI period, Shmi will receive 55% of pay for first six weeks after birth, then 100% of pay for weeks 7-12
- Creates interesting incentive for birthing mothers to extend leave

# Example #3:

## SF Home Office

### Example

- Covered employer First Order with 50+ employees has two long-time employees who have new children born on New Year's Day (January 1, 2017)
- Employee #3: Darth works 3 days per week in company's Silicon Valley headquarters, and 2 days per week from home in his SF apartment
- Employee #4: Kylo works from home 4 days per week in his Oakland house, and he comes into the comes into the SF office 1 day per week

### Employee #3: Darth Result

- Darth meets all the requirements to be a PPL covered employee
- He has been employed for at least 180 days
- He works at least 8 hours per week in San Francisco (from home)
- His San Francisco work is at least 40% of his weekly hours (exactly 40% here)
- He is eligible for PFL for baby bonding with his new twins

Key point here is that the employee can be covered by the PPLO based exclusively on work from SF home!

- The SF OLSE confirmed this informally with us

# Example #4:

## SF Work One Day Per Week

### Example

- Covered employer First Order with 50+ employees has two long-time employees who have new children born on New Year's Day (January 1, 2017)
- Employee #3: Darth works 3 days per week in company's Silicon Valley headquarters, and 2 days per week from home in his SF apartment
- Employee #4: Kylo works from home 4 days per week in his Oakland house, and he comes into the comes into the SF office 1 day per week

### Employee #4: Kylo Result

- Kylo does not meet all the requirements to be a SF PPL covered employee
- He has been employed for at least 180 days
- He works at least 8 hours per week in San Francisco
- His San Francisco work is NOT at least 40% of his weekly hours (20% here)
- He is eligible for CA PFL for baby bonding with his new twins

Key point here is that an employees who work at least 8 hours per week in SF can still be excluded from covered employee status

- The SF PPLO 40% requirement is an important difference from the SF HCSO!



Vacation Time  
**Required Use Provision**

# Two Weeks Unused Vacation Leave: Can Reduce Employer Payment

## Employer May Require the Employee to Use Up to Two Weeks Unused Vacation Leave Prior to Receiving PFL

- Employers may first require that employees use up to two weeks of paid vacation time or PTO (but not sick time) before receiving PFL benefits
- PPLO does not affect this option

## Employer May Then Require the Employee to Use Up to Two Weeks Unused Vacation Leave During PPL Period

- The employer may also require the employee to use up to an additional two weeks of paid vacation (if available) once PFL starts and the PPL period begins
- The paid vacation during this period must be integrated with PFL to cover only the remaining balance—which is the employer's PPL obligation
- Vacation time used during this period satisfies the employer's PPL obligation
- This can be a major reduction in the amount that the employer is required to pay for PPL!

# Two Weeks Unused Vacation Leave: Example

## Example (*Confirmed informally by the SF OLSE*)

- Jenga (a covered employee) has **four weeks of unused vacation time** (or PTO) available with his employer Kamino when he has a son, Boba
- Kamino's policy is to require use of up to two weeks vacation time prior to the PFL period
- Kamino also requires use of up to two weeks of vacation time to satisfy its PPL obligations
- Jenga's normal gross weekly wages are **\$1,000**

## Result

- Jenga first uses two weeks of unused vacation time before receiving PFL
- After he uses two weeks of vacation, he starts receiving PFL (**\$550/week**)
- Kamino's PPL requirement is **\$450/week**, or **\$2,700 total** (\$450 x 6 weeks)
- Jenga has two weeks of unused vacation time remaining, valued at **\$2,000**
- Kamino's PPL obligation for the first 4.4 weeks is satisfied by draining the remaining two weeks of vacation time from Jenga (**\$2,000**)
- At the end of that 4.4 week period, Kamino must pay the remaining 1.6 weeks of PPL from its funds (**\$700**)



Notice Requirements  
**Poster and Handbook**

# PPLO Poster

Available at: <http://sfgov.org/olse/paid-parental-leave-ordinance>

## City & County of San Francisco

### Paid Parental Leave Ordinance

#### 2017 Notice of Rights for New Parents

If you take time off work to bond with a new child, you may be eligible for SF Paid Parental Leave supplemental compensation from your employer, in addition to your weekly benefit from the California Paid Family Leave program.

#### Is Your Employer Covered?

Business Size: Employees (worldwide)	Date employer is covered
50 or more	January 1, 2017
35 or more	July 1, 2017
20 or more	January 1, 2018

#### Are You Eligible?

- Have you worked for your employer for 6 months (180 days)?
- Do you work a minimum of 8 hours per week & 40% of your hours in San Francisco?
- Are you receiving California Paid Family Leave benefits to bond with your new child?

**Duration:** Up to 6 weeks.

**Amount**

SF employer pays the difference between your weekly benefit from the California Paid Family Leave (PFL) program and 100% of your normal gross weekly wages (up to a cap). For 2017, California PFL benefits are 55% of weekly wages (up to a cap). So, in most cases, SF employer will pay 45% of weekly wages during your 6-week PFL period.

For more information, visit [www.sfgov.org/pplo](http://www.sfgov.org/pplo) or call (415) 554- 4190.

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### Ordenanza de Permiso de Ausencia Parental con Goce de Sueldo de San Francisco

#### Aviso de derechos de nuevos padres 2017

Si usted se toma unos días libres de su trabajo para establecer el vínculo afectivo con un nuevo bebé, podría tener derecho a compensación suplementaria de permiso de ausencia parental con goce de sueldo de SF además de su beneficio semanal del programa de permiso de ausencia parental con goce de sueldo de California.

#### ¿Está su empleador cubierto?

Tamaño de la empresa (empleados en todo el mundo)	Fecha en que el empleador está cubierto
50 o más	1 de enero de 2017
35 o más	1 de julio de 2017
20 o más	1 de enero de 2018

#### ¿Es usted elegible?

- ¿Ha trabajado para su empleador durante 6 meses (180 días)?
- ¿Trabaja un mínimo de 8 horas por semana y el 40% de sus horas en San Francisco?
- ¿Está recibiendo beneficios del permiso de ausencia familiar con goce de sueldo de California para establecer el vínculo afectivo con su nuevo bebé?

**Duración:** Hasta 6 semanas.

**Cantidad:**

Su empleador en SF paga la diferencia entre el beneficio semanal que obtiene del programa de permiso de ausencia familiar con goce de sueldo de California (PFL) y el 100% de su salario bruto semanal normal (hasta un tope máximo). Para 2017, los beneficios del programa PFL de California son el 55% del salario semanal (hasta un tope máximo). Así es que, en la mayoría de los casos, el empleador de SF pagará el 45% del salario semanal durante su período de seis semanas de PFL.

Para obtener mayor información, visite [www.sfgov.org/pplo](http://www.sfgov.org/pplo) o llame al (415) 554-4190

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### 三藩市帶薪育兒休假條例

#### 2017年新父母權利通知

如果你休假期和新生兒建立感情, 你可能有資格從你的雇主那裡獲得三藩市帶薪育兒休假補助金 (SF Paid Parental Leave supplemental compensation), 這是在你的加州帶薪家庭休假計劃 (California Paid Family Leave Program) 每週福利之外的補助金。

#### 你的雇主合格嗎?

公司規模 (員工人數全球)	雇主合格日期
50或以上	2017年1月1日
35或以上	2017年7月1日
20或以上	2018年1月1日

#### 你符合資格嗎?

- 你是否為你的雇主已工作了6個月(180天)?
- 你是否每週至少工作8個小時, 及40%的工作時間都在三藩市?
- 你是否正獲得加州帶薪家庭休假福利, 以便和新生兒建立感情?

**持續時間:** 最多 6 週。

**金額:**

三藩市雇主支付你從加州帶薪家庭休假計劃(PFL)中獲得的每週補助金與你的正常每週工資總額的100%之間的差額(不超過上限)。在2017年, 加州PFL福利是每週工資的55%(不超過上限)。因此, 在大多數情況下, 三藩市雇主在你的6週PFL時期內, 將支付每週工資的45%。

如需了解更多資訊, 請訪問網站 [www.sfgov.org/pplo](http://www.sfgov.org/pplo) 或致電 (415) 554- 4190。

Office of Labor Standards Enforcement  
(415) 554-6271

For more information  
please visit [www.sfgov.org/olse](http://www.sfgov.org/olse)

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For more information, visit [www.sfgov.org/pplo](http://www.sfgov.org/pplo) or call (415) 554- 4190.

# Employer Notice Requirements: Poster and Handbook

## Yet Another Workplace Poster!

- Covered employers must post the PPLO poster in a conspicuous place at any worksite or job site where any covered employee works
- Notice must be posted in English, Spanish, and Chinese (plus any other language spoken by at least 5% of employees at the workplace or job site)
- Model notice from prior slide includes the three main required languages

## Employee Handbook Update, Too

- If the covered employer maintains an employee handbook that describes personal or parental leave available to its employees, they must also include a description of the employee's PPLO rights
- Employer must include the PPLO description in the next edition of its handbook published on or after December 23, 2016 (the date the PPLO regulations were finalized)

## Reminder: Provide the PPL Form

- See slide 16 for details on when to provide the PPL form to employees

A person's hands are shown holding a pen over a document. The document features a bar chart with several bars of varying heights. The entire scene is overlaid with a semi-transparent red gradient. The text 'Recordkeeping' is in a light pink color, and 'Three-Year Rule' is in white.

# Recordkeeping **Three-Year Rule**

# Recordkeeping Requirements: Three-Year Rule

## Yet Another Record Retention Rule!

- Covered employers must keep records documenting PPL paid to employees for a period of **three years**
- Must allow the OLSE to access such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the PPLO

## Failure to Comply

- Failures to comply result **in presumption that the employer has violated the PPLO** when an issue arises for an employee
- Employer must demonstrate clear and convincing evidence of compliance to rebut that presumption
- Applies where employer does not maintain or retain adequate records documenting PPL paid to an employee
- Also applies where employer does not allow the OLSE reasonable access to such records



# Miscellaneous Details: **Other Compliance Issues**

# The Other Stuff

## Exclusions form the PPLO

- Employers with fewer than 20 employees (worldwide)—use three-month lookback period on slide 7 for average employer size if workforce fluctuates from week
- All governmental entities
- Collectively bargained employees if the requirements are expressly waived in the CBA
  - Also excludes any CBA entered into (and not extended) before the PPLO was enacted (4/5/16)

## Multiple Employers or Tipped Employees

- Special rules apply if the employee has multiple employers or receives tips
- Covered employer has the right to request pay stubs from employee to verify wages
- Calculation method available here: <http://sfgov.org/olse/paid-parental-leave-calculations>

## PPL Payment Timing

- Employer must make good faith effort to make first PPL payment on the payday for the next full pay period after the employee completes and provides the PPL form
- For subsequent payments, the employer must make a good faith effort to pay in accordance with the employer's regular pay schedule
- Outer limit for full PPL payment is 30 days after the employee's PFL period ends

# The Other Stuff

## Intermittent Leave

- Employees are permitted to receive PFL benefits intermittently
- Extensive PPLO rules govern how to comply during an employee's intermittent leave
- See rules starting on page 12:  
<http://sfgov.org/olse/sites/default/files/Document/31%20FINAL%20PPLO%20Rules%2012%2023%2016v2.pdf>

## Appeal Process

- Employee may report suspected violations of the PPLO to the OLSE
- If the employer receives a Determination of Violation, it may file an appeal by requesting a hearing before a neutral hearing officer appointed by the Office of the Controller
- Employer will have the burden of proof to show that the violation is incorrect

## California Voluntary Plans (VDI)

- Employers with a California Voluntary Plan (VDI) that replaces SDI/PFL must still comply with the PPLO
- PPL payments may be provided through the voluntary plan or by paying the PPL amounts directly to the covered employee

A hand holding a pen over a document with a bar chart, overlaid with a red gradient.

Enforcement  
**Penalties &  
Civil Enforcement**

# Enforcement & Penalties

1. If the OLSE determines that the employer has committed a violation after the appeal process, it may order PPL payment to the employee
2. OLSE may order that the PPL payment to the employee include an administrative penalty of the greater of:
  1. Three times PPL amount withheld to the employee; or
  2. \$250
3. Failure to post the notice, comply with anti-retaliation provisions, or other noncompliance includes a \$50/day administrative penalty payment to each employee
4. OLSE may request that the City revoke or suspend any city certificates, permits, or licenses held by the employer where “prompt compliance is not forthcoming”
5. OLSE may order a \$50/day penalty to the City to fund its enforcement activity
6. The City or any other person may bring a civil action against the employer after serving notice to the OLSE and City Attorney



2018 SDI/PFL Changes  
**Increased Benefits!**

# CA SDI/PFL Changes for 2018

In April 2016, Governor Jerry Brown signed AB 908 into law increasing the benefits paid under SDI and PFL beginning in 2018. This will **reduce the balance that must be paid by employers under the PPLO** from 45% to 40% or 30% depending on income level.

## Increased Benefits: 60% or 70%

### Specifics:

- Current SDI/PFL benefit is 55% wage replacement for all income levels
- New 2018 approach will depend on income level during the base period (prior four quarters):
- **Sixty Percent (60%):** Individuals who earned one-third or **more of the state's average quarterly wage**
- **Seventy Percent (70%):** Individuals who earned **less than one-third of the state's average quarterly wage**

## Elimination of Waiting Period: For PFL Only

### Specifics:

- Currently there is a seven-day waiting period to receive benefits under both SDI and PFL programs
- The PFL waiting period is waived for new mothers transitioning from SDI to PFL
- **AB 908 eliminates the seven-day waiting period for PFL claims** (that aren't a transition from SDI)
- Seven-day waiting period will remain for SDI claims

A person is writing in a notebook with a pen. In the background, a laptop screen displays a bar chart with five bars of increasing height. The entire scene is overlaid with a semi-transparent pink filter.

# Wrap Up **Takeaways**

# The San Francisco Paid Parental Leave Ordinance

## Three Key Points to Remember:

A

The PPLO is effective as of 1/1/17 for employers with at least 50 employees worldwide in the entire controlled group (including subsidiaries and other related entities). 35+ employees effective 7/1/17, 20+ employees effective 1/1/18.

B

Covered employees include any employee who a) has been with the company for at least 180 days, b) works at least 8 hours per week in the City, c) works at least 40% of the time in the City, and d) is eligible for PFL for new child bonding. This includes any SF work—even if it is at a home office!

C

The PPLO is funded by the employer! This is a dramatic difference from the SDI/PFL structure that is funded by an employee payroll tax and paid by the CA EDD. Budget accordingly. Furthermore, consider the employee relations issue if you have multiple offices. Will you extend the PPL equivalent benefit to employees outside of SF? This is an important business decision.

# Content Disclaimer

## The San Francisco Paid Parental Leave Ordinance

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# Thank you!

**Brian Gilmore**

Lead Benefits Counsel, VP

**ABD Insurance & Financial Services, Inc.**

**[brian.gilmore@theabdteam.com](mailto:brian.gilmore@theabdteam.com)**

