

SAN FRANCISCO WILL REQUIRE EMPLOYERS TO PROVIDE PAID PARENTAL LEAVE: FAQS FOR EMPLOYERS

Insights
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The City of San Francisco just became the first city in the country to pass legislation requiring many employers to provide workers with paid parental leave, entitled the "Paid Parental Leave Ordinance." Starting in 2017, many businesses in San Francisco will be required to provide up to six weeks of fully paid parental leave to most workers after certain conditions are met. This groundbreaking law will force employers to revamp their administrative policies and practices, while adjusting their budgets to foot this new bill.

The following Frequently Asked Questions will assist employers who operate in San Francisco in determining the specifics of coverage under the new law:

Q: IN A NUTSHELL, WHAT HAS CHANGED?

A: As most San Francisco employers know, all California employees may receive up to 55% of their pay for six weeks through the California Paid Family Leave Program (PFL) when they are off work to bond with a newborn baby, newly adopted child, or new foster child, or to care for a seriously ill family member.

Once this new law takes effect, covered San Francisco employers will be forced to pay the 45% remainder not provided by PFL so that workers receive their normal gross weekly pay during absences of six weeks for the purpose of bonding with a new child, as described above.

Q: WHO IS COVERED?

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Ã: As of January 1, 2017, all employers in San Francisco with 50 or more employees, regardless of their location, are covered by the Ordinance. Starting on July 1, 2017, covered employers are those with 35 or more employees, and starting on January 1, 2018, covered employers are those with 20 or more employees.

Even if you do not employ 20 workers within the San Francisco city limits, you have an obligation to provide those employees who work within the City with paid parental leave. All governmental entities, including the City and County of San Francisco, are not covered.

Q: WHEN WILL THE LAW GO INTO EFFECT?

A: For businesses with 50 or more employees, the new law will take effect on January 1, 2017. Businesses with between 20 and 49 employees will get a bit of reprieve, as the law will take effect for them on July 1, 2017 or January 1, 2018, depending on the size of the employer, as stated above.

Q: WHICH EMPLOYEES ARE ELIGIBLE?

A: In order to be eligible for the San Francisco paid leave benefit, employees must work eight hours or more per week in San Francisco, 40% of their total weekly hours worked for the employer must be worked in San Francisco, and they must already be eligible for California's PFL Program. However, eligibility only kicks in after that they have worked for a company for 180 days prior to the start of the leave period. Both mothers and fathers are covered, including same-sex couples.

Q: HOW MUCH PAID PARENTAL LEAVE WILL EMPLOYERS NEED TO PROVIDE?

A: Under the law, San Francisco employers will need to offer up to six weeks of paid parental leave to eligible employees to cover the portion of their normal weekly pay not provided by PFL.

Q: WHAT EVENTS ARE IMPACTED?

A: The new law will cover absences for new births, adoptions, and fostered children.

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Q: HOW MUCH WILL EMPLOYERS NEED TO PAY?

A: As noted above, the state PFL currently allows eligible workers to receive up to 55% of their pay for family leave purposes. This new law requires San Francisco employers to make up the balance and cover the remaining 45% of gross weekly pay.

As of the time of writing, a proposal before the state legislature would increase the statewide mandate percentage. If that proposal passes and the statewide rate rises, the San Francisco-required portion would decrease accordingly. Covered employers are required to supplement pay so that it does not exceed 100% of the employee's gross weekly wage.

Q: CAN EMPLOYERS BE MORE GENEROUS WITH THEIR LEAVE PROGRAMS?

A: Yes, the law does not prevent companies from providing even greater paid leave benefits, and businesses that provide benefits in excess of the legal requirements will be exempt from San Francisco's new law.

Q: CAN EMPLOYERS REQUIRE THAT EMPLOYEES USE VACATION TIME?

A: Yes, businesses can force their workers to use up to two weeks of their accumulated but unused vacation time at the start of their parental leave, somewhat relieving the burden on employers.

Q: ARE THERE ANY OTHER REQUIREMENTS?

A: Employers must post a notice, to be prepared by the City, informing their workers of the law's requirements. It must be located in a conspicuous place and posted in English, Spanish, Chinese, and any other language spoken by at least 5% of the San Francisco workforce at that particular site.

Q: HOW MIGHT EMPLOYERS RUN AFOUL OF THE LAW?

A: Besides requiring paid parental leave, the law makes it illegal for San Francisco employers to fire or otherwise discipline an employee in retaliation for receiving the additional pay under the new law.

If you have any questions about this new law or how it may affect your business, please contact your Fisher Phillips attorney or one of the attorneys in our California offices:

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