



# **San Francisco Issues Guidance On COVID-19 Paid Sick Leave While Area Shelter-In-Place Orders Extended**

Insights

3.31.20

When San Francisco Mayor London Breed announced a Workers and Families First Program (Program) on March 16 that will see the city provide funding for private sector workers impacted by the COVID-19 pandemic to receive an additional five days of paid sick leave, employers and workers alike had questions. San Francisco's Office of Economic & Workforce Development and Office of Labor Standards Enforcement just issued guidance on how the program will work. Also, businesses throughout the Bay Area received updated news about an extension of the local shelter-in-place orders currently in effect.

## **Workers And Families First Program Reimbursement For Extra Sick Time**

San Francisco's Workers and Families First Program will provide \$10 million to reimburse businesses with employees in San Francisco to allow businesses to provide those employees with additional paid sick leave. Basic provisions of the program are as follows:

### ***Who is covered?***

All San Francisco employers with full- or part-time employees who work in San Francisco are eligible. Remote employees are not eligible.

### ***When does the program go into effect?***

The program covers sick leave taken by an eligible employee since March 16. However, funding will be available on a first-come basis and will only be available until all funds are exhausted or when there is no need for a subsidized extended sick leave program.

### ***How much will San Francisco subsidize through the program?***

The City will reimburse \$15.59 per hour for the extra sick leave up to 40 hours per employee or \$623 per employee, requiring businesses to pay the difference between \$15.59 and the employee's regular hourly rate. Each business is eligible for reimbursement up to \$311,176, which is the equivalent for covering 499 full-time employees.

### ***Can employers combine benefits under the program with existing PTO plans?***

Business will first be required to exhaust existing PTO in the amount equivalent to the hours of paid sick leave employees were entitled to accrue under the San Francisco Paid Sick Leave Ordinance before seeking reimbursement for additional paid sick leave through the program. In addition, for

reimbursement sought for hours on April 2 or later, businesses with 200 to 499 employees must first exhaust the 80 hours of additional sick leave required by the federal Families First Coronavirus Response Act.

Business will also be required to exhaust their existing sick leave policies and state or federal sick leave programs related to COVID-19 before seeking reimbursement for the additional sick leave through the Program.

### ***How will businesses be reimbursed?***

Business will need to apply and be approved to qualify for reimbursement for the additional paid sick leave provided to employees. San Francisco has established a website where businesses may submit applications.

To be approved, the city will ask for information about your business including the address, employer identification number and an estimate of the number of your staff and their typical hours worked in San Francisco. Businesses applications will be reviewed and pre-approved within a few days of filing.

Business will have 90 days after being approved for the funding to submit reimbursement requests but may submit reimbursement requests on a rolling basis during the 90-day reimbursement period. Businesses can expect reimbursement within two to three weeks after being approved.

### ***What conditions will allow employees to qualify for the additional paid sick leave?***

San Francisco's Office of Labor Standards Enforcement (OLSE) has already issued guidance on the conditions under which employees will qualify for extended sick leave under the program:

- To quarantine to prevent the spread of the disease as recommended by a public health official;
- The employee is considered part of the vulnerable population. As of March 6, 2020, this includes individuals who are at least 60 or has a health condition including heart disease, lung disease, diabetes, kidney disease, or a weakened immune system;
- To care for a family member who is not sick, but who public health professionals have recommended to isolate or quarantine; or
- To provide care for a family member whose school, child care provider, senior care provider, or work temporary ceases operations in response to recommendations from a public health or other public officials.

The OLSE's recent guidance states that employers may not require doctor's note for employees using paid sick leave during the COVID-19 local health emergency. This is a temporary rule will stay in effect for the duration of the local health emergency.

Further, San Francisco paid sick leave is only available to employees. This means employees who have been laid off are not eligible. However, if an employee is later rehired by the employer within

the year, the employee is entitled to the previously accrued paid sick leave.

### **San Francisco Bay Area Jurisdictions Extend Shelter-In-Place Orders Through May 3, 2020**

The counties of Alameda, Contra Costa, Marin, Santa Clara, San Francisco, and San Mateo, and the City of Berkeley, instituted shelter-in-place orders on March 16 that were to last through April 7. These jurisdictions have now updated the shelter-in-place orders by extending them through May 3.

Additionally, the updated orders provide the following changes affecting business:

- Businesses supplying products needed by people working from home are no longer essential businesses and must cease storefront sales to the public. Minimum operations and delivery directly to residences or businesses are allowed to continue.
- Essential businesses like grocery stores, banks, and pharmacies are allowed to remain open but must stop operating portions of their business that are not essential.
- Essential businesses must put in place a formal social distancing protocol.
- Most construction must cease. There are exceptions, which include health care projects directly related to addressing the pandemic, construction to house the homeless, affordable housing, and multi-unit or mixed-use developments containing at least 10% income-restricted units. Social distancing requirements will apply.

The changes take effect at midnight on March 31, 2020.

### **Conclusion**

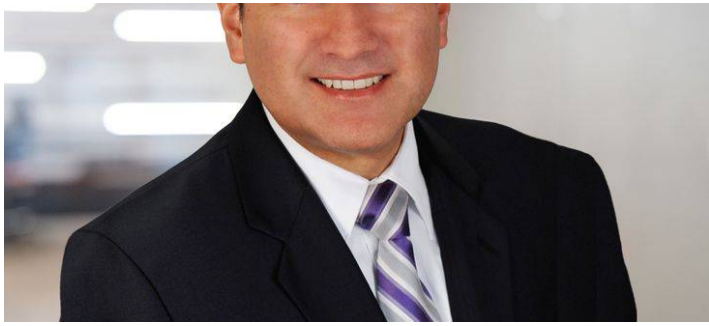
We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our [San Francisco office](#), or [any member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

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*The author would like to thank Law Clerk Abby Harrington for her assistance in preparing this Alert. This Legal Alert provides an overview of specific local laws. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

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