



Heads Up! San Francisco Paid Parental Leave Ordinance... Supplementing California Paid Family Leave, Effective January 1, 2017

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San Francisco has become the first U.S. jurisdiction at any level to decree *fully paid parental leave for parents to bond with their child*. California currently provides six weeks of partially paid leave through the state EDD disability insurance (SDI) program (55% of pay). The Paid Parental Leave Ordinance passed by the San Francisco Board of Supervisors and signed by Mayor Ed Lee will require employers to pay *the remaining 45%* of the employee's wages for up to six weeks when the employee (mother or father) takes leave to bond with a newborn baby, a newly adopted child, or a new foster child. The amended ordinance was signed by the Mayor on September 14th. **The ordinance takes effect January 1, 2017.**

Employees who will be covered by the new law and entitled to this supplemental wage replacement are those:

- who have been employed by that employer at least 180 days prior to the start of the leave;
- who work for the employer at least 8 hours per week and 40% of total weekly hours in San Francisco; and
- who are eligible to receive paid leave for purposes of bonding with a new child, under the California Paid Family Leave program through the EDD.

These requirements encompass the great majority of workers in the city, but do not include City or other governmental entity employers.

As of January 1, 2017, the ordinance will apply to all employers who regularly employ *50 or more employees*, regardless of location. This number decreases to 35 on July 1, 2017, and to 20 on January 1, 2018. Employers not based in San Francisco, but who have employees who work there, must be on alert to ensure compliance.

It should be noted, however, that rights under the ordinance can be waived through collective bargaining agreements. Moreover, in order to receive the supplemental compensation, employees must agree to apply up to two weeks of unused accrued vacation leave.

Employers must be aware that the ordinance includes notice and posting requirements, three-year recordkeeping requirements, and an anti-retaliation provision, rebutted only by clear and convincing evidence that the adverse action was solely for a non-retaliatory reason. The ordinance provides for enforcement by the San Francisco Office of Labor Standards Enforcement and the City of San Francisco. The ordinance also provides a private right of civil action, only if, after serving written notice on the OLSE and City, no action is brought by either entity within 90 days of such notice. Remedies include reinstatement, back pay, liquidated damages, and/or injunctive relief, plus attorneys' fees and costs.

All covered employers should move to revise their existing policies and procedures, and will likely need to amend employee handbooks. Payroll employees must be made aware of the requirement to pay the remainder of the employee's wages, when an employee takes parental leave.

How Nossaman Can Help

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