



# City-Wide and Contract Labor Laws for MOHCD Grantees October 26, 2020

Beverly Popek and Shinji Sakai-Egi  
Compliance Officers



Office of Labor Standards Enforcement

# Housekeeping

- PowerPoint Slides will be available after the presentation.
- Use Question Box to Ask Questions



# Office of Labor Standards Enforcement (OLSE)

**Mission: Enforcement of Labor Standards**

## **OLSE Statutory Authority**

San Francisco Administrative Code

Sec.2A.23 Office of Labor Standards Enforcement



# Highlights of OLSE Statutory Authority

- Enforce the provisions of the California Labor Code to the extent permitted by State law
- May impose penalties and take any and all appropriate action to enforce
- All City departments shall cooperate with the OLSE Officer
- OLSE Officer shall have the authority to subpoena the production of books, papers, records or other items relevant to investigations under the jurisdiction of the Office of Labor Standards Enforcement.



# What labor laws does OLSE enforce?



# San Francisco Labor Laws: City Wide

## **All Employers**

- Minimum Wage Ordinance
- Paid Sick Leave Ordinance
- Lactation in the Workplace
- Consideration of Salary History

## **Employers with 5 or more**

- Fair Chance Ordinance

## **Employers with 20 or more**

- Health Care Security Ordinance
- Family Friendly Workplace Ordinance
- Paid Parental Leave Ordinance
- Formula Retail Employee Rights



# San Francisco Labor Laws: City Contractors

*The following San Francisco labor laws may apply to employers with contracts or leases with the City. Applies to subcontractors*

## **All Employers**

- Consideration of Salary History\*

## **Employers with 5 or more**

- Minimum Compensation Ordinance
- Fair Chance Ordinance\*

## **Employers with 20 or more**

- Health Care Accountability Ordinance

## **Work Specific**

- Prevailing Wage
- Sweatfree Contracting Ordinance

\*Also required for all companies operating/doing business in the City and County of San Francisco



# City Wide & Contract Labor Laws

**\*\*This presentation is customized for grantees\*\***

- Minimum Wage Ordinance
- Paid Sick Leave Ordinance
  - Fair Chance Ordinance
- Consideration of Salary History
  - Lactation in the Workplace
- Family Friendly Workplace Ordinance
- Minimum Compensation Ordinance
- Health Care Accountability Ordinance
  - Health Care Security Ordinance







# San Francisco Minimum Wage Ordinance



Office of Labor Standards Enforcement

# San Francisco Minimum Wage Ordinance

- The minimum wage is currently at **\$16.07** per hour
- Beginning **July 1, 2019**, and each year thereafter, the minimum wage will be adjusted based on the annual increase in the Consumer Price Index.



Office of Labor Standards Enforcement



## City & County of San Francisco San Francisco Minimum Wage

For full-time employees, failure to post this notice may result in penalties.

# \$16.07

per hour  
por hora  
per hora  
por hora

Rate Effective - la tasa entrará en vigor el - 01/01/2020 - Simula sa

## July 1, 2020

### OFFICIAL NOTICE

Beginning July 1, 2020, all employers must pay all employees who work in San Francisco (including temporary and part-time employees) at least \$16.07 per hour.

This minimum wage requirement applies to a full and minor employees who work two (2) or more hours per week. Some employees at government-subsidized non-profit organizations who are under 18 years of age or over 55 years of age are subject to a lower minimum wage rate of \$14.22.

Employees who assert their rights to the City's minimum wage are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of the Ordinance. The City can investigate possible violations and can enforce the minimum wage requirements by ordering payment of all unpaid wages and penalties.

For more information, contact the San Francisco Office of Labor Standards Enforcement (OLSE) at (415) 554-6292 or email [olse@gofpp.org](mailto:olse@gofpp.org).

### AVISO OFICIAL - Salario Mínimo de San Francisco

Como tener un salario mínimo en San Francisco. La tasa se aplicará a todos los empleados que trabajen en San Francisco.

A partir del 1º de julio de 2020, todos los empleadores deben pagar a todos los empleados que trabajan en San Francisco (incluyendo a los trabajadores temporales y de tiempo parcial) por lo menos \$16.07 por hora.

Este requisito de salario mínimo se aplica a todos los empleados adultos y menores de edad que trabajan dos (2) o más horas por semana. Algunos empleados de organizaciones sin fines de lucro subvencionadas por el gobierno que son menores de 18 años o mayores de 55 años de edad están sujetos a un salario mínimo más bajo de \$14.22.

Los empleados que hacen valer sus derechos al salario mínimo de la Ciudad están protegidos contra represalias. Los empleados pueden presentar una demanda civil contra sus empleadores en caso de incumplimiento de la Ordenanza. La Ciudad puede investigar posibles violaciones y puede hacer cumplir los requisitos de salario mínimo ordenando el pago de todos los salarios no pagados y las multas.

Para obtener más información, contacte a la Oficina de Normas Laborales (OLSE) de San Francisco al (415) 554-6292 o envíe un correo electrónico a [olse@gofpp.org](mailto:olse@gofpp.org).

### 正式通告·三藩市最低工資

請僱主注意此通告張貼的地方，未張貼此通知可能會導致罰款。

自2020年7月1日開始，所有僱主必須支付在三藩市內工作的所有僱員（包括臨時僱員及兼職僱員）工資至少每小時 \$16.07 美元。

這最低工資規定適用於成人和青少年僱員在每星期工作兩 (2) 小時或以上者。對於一些政府補助非營利組織 18 歲以下或 55 歲以上的僱員，其最低工資規定為 \$14.22。

僱員要求獲得本市最低工資的權利受法律保護不會受到報復。僱員有權以任何違反條例的理由控告僱主。市政府有權調查可能的違法行為。透過補償所有未付薪資及罰款，強制執行最低工資規定。

如需了解更多信息，請致電 (415) 554-6292 或電郵至 [olse@gofpp.org](mailto:olse@gofpp.org) 與三藩市勞工執行署 (OLSE) 聯絡。

### Opisyal na Abiso - Pinakamababang Pasahod sa San Francisco

Ang opisyal na Pasahod sa San Francisco. Ang opisyal na Pasahod sa San Francisco. Ang opisyal na Pasahod sa San Francisco.

Simula sa Hulyo 1, 2020, lahat ng mga empleyador ay kailangang magbayad sa lahat ng empleyado sa San Francisco (kasama ang pansamantalang at part-time na mga empleyado) ng salapi sa hindi bababa sa \$16.07 bawat oras.

# MWO: Penalties for Non-compliance

## **Penalties to the employees:**

- OLSE may order any appropriate relief including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued.

## **Penalties to the City to compensate the City for the cost of investigating**

- Not more than \$50.00 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued.



# **OLSE HOTLINE for SF Minimum Wage Questions**

**(415) 554-6292**

**[mwo@sfgov.org](mailto:mwo@sfgov.org)**

**[www.sfgov.org/olse/mwo](http://www.sfgov.org/olse/mwo)**





# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# San Francisco Paid Sick Leave Ordinance



Office of Labor Standards Enforcement

# Covered Employees

- Employees NOT covered under the Minimum Compensation Ordinance (MCO)
- Employees who perform work in San Francisco, including on a part time or temporary basis, accrue paid sick leave for those hours worked in the city, regardless of where their employer is located



# Use of Paid Sick Leave

- An employee may use paid sick leave when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis
- Sick leave can also be used to aid or care for the following persons – child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person.
- Sick leave can be used by an employee who is a victim of domestic violence, sexual assault or stalking.





# Accrual and Use of Paid Sick Leave

- Accrue 1 hour of PSL for every 30 hours worked
- Accrue PSL starting on day 1
- Use PSL hours after 90 days
- Caps on accrual:
  - 40 hours for employers with <10 employees
  - 72 hours for all other employers
- Caps are not annual; accrued PSL hours carry over from year to year
- Employers must notify employees of PSL accrued each pay period
- Employees can use any PSL accrued



# PSL: Penalties for Non-compliance

## **Penalties to employees: paid sick leave unlawfully withheld**

- The dollar amount of paid sick leave withheld from the employee multiplied by three, or \$250.00, whichever amount is greater.

## **Penalties to employees: Other harm to the employee or any other person, such as discharge from employment, or otherwise violated the rights of employees or other persons, such as a failure to post the notice or an act of retaliation prohibited by Section 12W.7**

- \$50.00 to each employee or person whose rights under the PSLO were violated for each day or portion thereof that the violation occurred or continued.

## **Penalties to the City to compensate the City for the cost of investigating**

- Not more than \$50.00 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued.



# Paid Sick Leave Questions

(415) 554-6271

[psl@sfgov.org](mailto:psl@sfgov.org)

[www.sfgov.org/olse/pslo](http://www.sfgov.org/olse/pslo)





# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Family Friendly Workplace Ordinance



Office of Labor Standards Enforcement

# Who is covered?

**Any employer who regularly employs 20 or more employees, worldwide.**

- Count all employees, regardless of whether they are seasonal, commissioned, permanent, temporary, full-time, or part-time.

**An employee is covered if that individual:**

- Has been employed by the employer for six months or more; and
- Regularly works at least 8 hours per week in San Francisco.



# Employee Request and Employer Response

## Request

- Must be in writing
  - See sample request form on <https://sfgov.org/olse/family-friendly-workplace-ordinance-ffwo>

## Response

After receiving a request, the employer is required to:

- Meet with the employee within **21 days**.
- Consider the request and respond within **21 days** of the meeting.
- May ask for verification
  - The employer may grant or deny the request.



# Granting the Request

If the employer ***grants*** the request:

- Employer must confirm the arrangement in writing
- The employer or the employee can revoke the arrangement (with 14 days notice)
  - If the employer revokes the agreement, the employee may request a new flexible or predictable work arrangement.





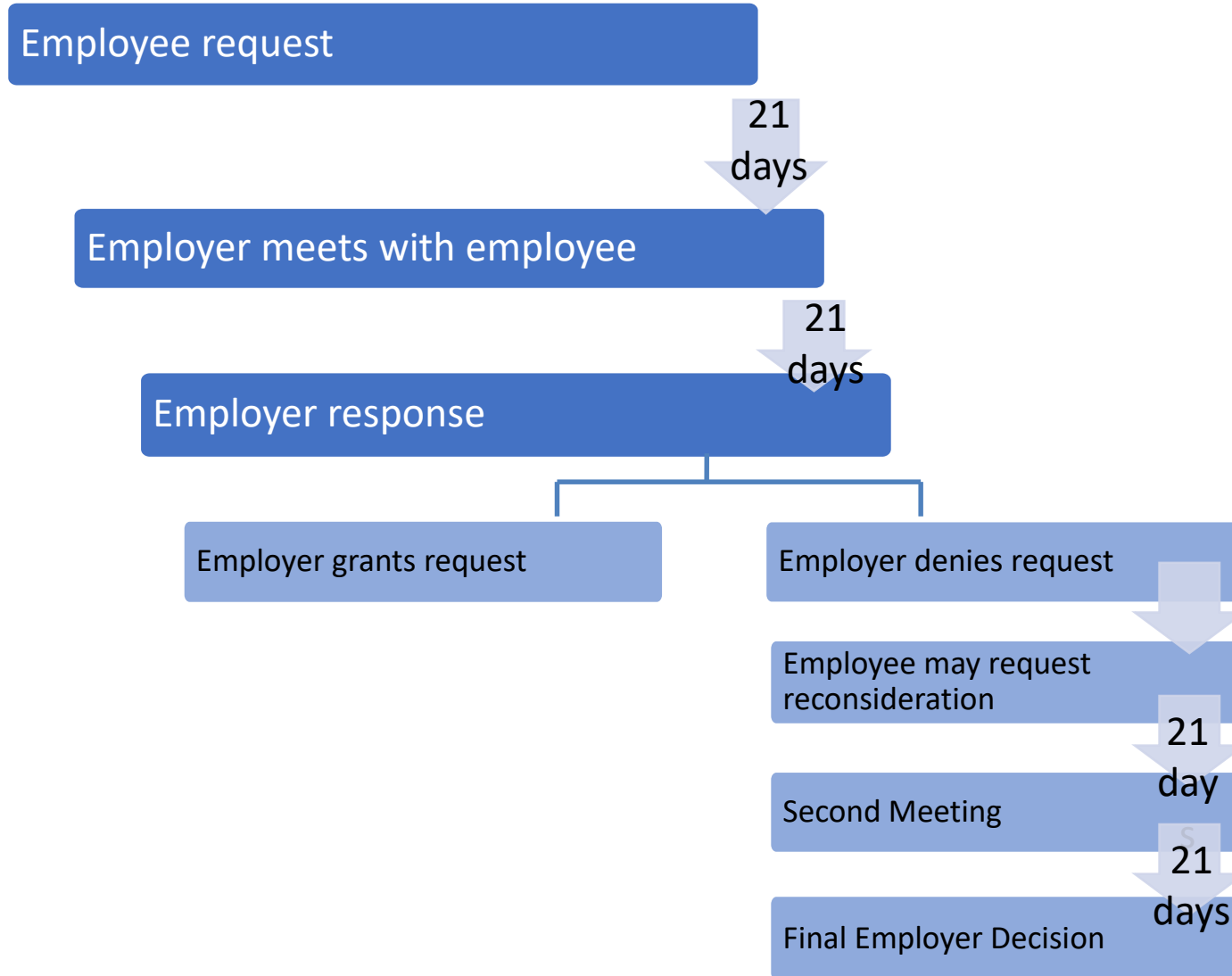
# Denying the Request

If the employer ***denies*** the request, the employer is required to:

- Explain the denial in writing and provide a bona fide business reason for the denial.
- Notify the employee of the right to request a reconsideration.
  - A request for a reconsideration must be made within 30 days of a denial. If the employee makes a request for reconsideration, the employer must meet with the employee again, and issue a final decision.
- No retaliation



# FFWO Request Process



# FFWO Penalties for Noncompliance

**OLSE will order any appropriate relief, including but not limited to:**

- Up to \$50 per individual per day, for each day that an individual's rights are violated under the FFWO (to be paid to each individual)
- Same to compensate the City for enforcement costs

**All remedies, penalties, and procedures are cumulative.**



# Family Friendly Workplace Ordinance Questions

- Online: [www.sfgov.org/olse/ffwo](http://www.sfgov.org/olse/ffwo)
- FFWO email: [FFWO@sfgov.org](mailto:FFWO@sfgov.org)
- FFWO help line: (415) 554-6424





# Questions?

Send us your questions in the Q&A Box



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# Lactation in the Workplace



Office of Labor Standards Enforcement

# Covered Employers and Employees

- All employers – except for government entities – that have employees working in San Francisco are covered
- All employees working within the geographic boundaries of San Francisco, including part-time employees, are covered



# Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

- Break time shall, if possible, run concurrently with any break time already provided to the employee
- Break time that does not run concurrently with the rest time authorized under State law may be unpaid





# Employer Requirements – Lactation Location

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee's work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a surface
  - Contains a place to sit
  - Has access to electricity
- Employers must provide, in close proximity to the employee's work area, access to a refrigerator and a sink with running water
- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own



# Employer Requirements – Lactation Accommodation Policy

Employers must develop and implement a Lactation Accommodation policy that affirms an employee's right to lactation accommodation and explains how employees may request it, including:

- A. Identify the process by which an employee may submit a request
- B. Require the employer to respond within 5 business days
- C. Require the employer and employee to engage in an interactive process to determine the appropriate lactation break period(s) and location



# LWO: Penalties for Non-compliance

\$500 for each violation of the Ordinance. This penalty shall be payable to the affected worker(s) and be due within 30 days from the date of the DOV. In order to compensate the City for the cost of investigating and remedying violations, the LWO also provides for OLSE to impose administrative penalties up to \$50 for each day or portion thereof and for each Employee or person as to whom the violation occurred or continued. Such funds shall be made payable to the City and County of San Francisco and be due within 30 days from the date of the DOV.



# OLSE – Lactation in the Workplace

[www.sfgov.org/olse/lactation-workplace](http://www.sfgov.org/olse/lactation-workplace)

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

[lactation@sfgov.org](mailto:lactation@sfgov.org)



Office of Labor Standards Enforcement



# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Consideration of Salary History Ordinance



Office of Labor Standards Enforcement

# Covered Employers and Employees

- All employers – except for government entities – that have employees working in San Francisco are covered
- All employees working within the geographic boundaries of San Francisco, including part-time employees, are covered



# Key Provisions

- Employers may not ask applicants about their current or past salary
- Employers may not disclose a current or former employee's salary history without that employee's written authorization unless the salary history is publicly available
- An applicant may choose to share salary history information voluntarily and without prompting. If the applicant does so, the employer may consider that information in determining the salary to offer that applicant.





# Consideration of Salary History: Penalties for Non-compliance

- The awarding authority may deduct from the amount payable to the Contractor or Subcontractor by the City under any Contract subject to this Chapter, or the OLSE may impose upon the Contractor or Subcontractor, a penalty of \$50 for each employee, applicant or other person as to whom the violation occurred or continued. Thereafter, for subsequent violations, the penalty may increase to no more than \$100, for each employee or applicant whose rights were, or continue to be, violated.



# OLSE – Consideration of Salary History

[www.sfgov.org/olse/consideration-salary-history](http://www.sfgov.org/olse/consideration-salary-history)

(415) 554-6469

[salaryhistory@sfgov.org](mailto:salaryhistory@sfgov.org)





# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Fair Chance Ordinance



Office of Labor Standards Enforcement

# Who is Covered?

- Police Code Article 49: Employers Citywide
  - **5+ employees worldwide** & any employees (or planned positions) in SF
  - Any position where the employee works/will work at least 8 hours/week in SF
- Admin Code 12T: City Contractors
  - **Any size & any employees** (or planned positions) in SF
  - Any position where the employee works/will work at least 8 hours/week in SF



# Compliant Hiring Process



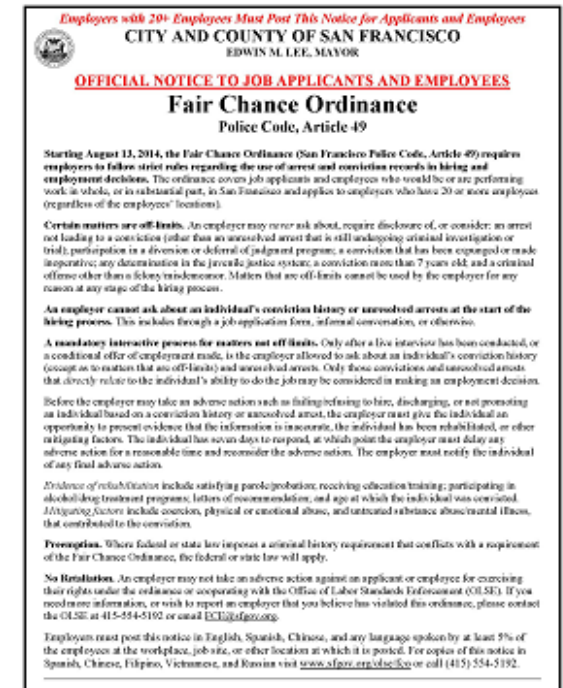
- Job announcements **cannot** say that someone with arrests or convictions will not be considered, or that a background check must be “passed.”
- Job announcements **must** include an affirmative statement of compliance with the FCO:  
*“Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records.”*
- Job applications **cannot** ask about the applicant’s history of arrests or convictions
- Employers **cannot** ask about, or inquire into, convictions or unresolved arrests until after a conditional offer of employment.



# Background Check and Following Steps

When considering an applicant's conviction history, the Employer must:

- not consider prohibited information from the background check such as a conviction that is more than 7 years old \*Exceptions apply
- consider only Directly-Related Convictions and conduct an individualized assessment
- provide the applicant with a copy of the FCO Notice & background check
- give the applicant seven days to respond – correct or provide evidence of rehabilitation or mitigating factors
- treat each applicant as an individual – **no automatic rejections**



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# FCO: Penalties for Non-compliance

- First Violation – up to \$500
- Second Violation – up to \$1,000
- Third Violation – up to \$2,000
- Penalties must be paid to the person impacted by the violation.
- Any employee or applicant whose rights have been violated is authorized to sue.





# Resources

## SF Fair Chance Ordinance

- Employment Questions – Office of Labor Standards Enforcement
  - Web page: <http://sfgov.org/olse/fco>
  - Phone hotline: (415) 554-5192
  - Email address: [fco@sfgov.org](mailto:fco@sfgov.org)
- Affordable Housing Questions – Human Rights Commission
  - Web page: <http://sf-hrc.org/fair-chance-ordinance>

## California Fair Chance Act

- [www.dfeh.ca.gov](http://www.dfeh.ca.gov)





# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Minimum Compensation Ordinance (MCO)



Office of Labor Standards Enforcement

# MCO & HCAO



These are the labor laws for **non-construction** workers who work on the contract.

Can be located anywhere in the US.

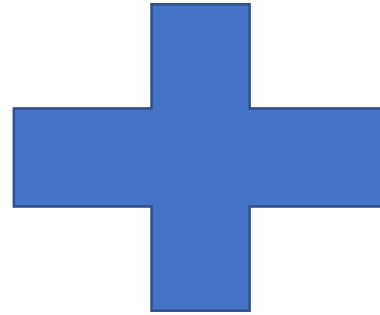
Examples:

- Clerical/administrative staff at office who support the contract
- Project and Construction Managers
- Case workers and Program Managers
- Architects, Engineers, Planners, Designers, other professional services...



# MCO

## Wages and Paid Time Off (PTO)



# Minimum Compensation Ordinance (MCO)

*Not just about paying the minimum hourly rate*

*Doesn't matter where the company is located – Vendors need to comply if ordinance is in the Agreement*

## **MCO: Covered Employer**

- For-profit and nonprofit – 5+ workers (permanent, temporary, etc.) anywhere in the world with a City contract or grant
- Includes subcontractors and subtenants

## **MCO: Covered Employee/Worker**

- Anyone working for a covered employer on a City contract
- Worker/Employee is anyone – doesn't matter if full-time, part-time, contract, casual, etc.



Office of Labor Standards Enforcement



# MCO: Requires Covered Employees to Receive (at least)

## The minimum hourly compensation rate:

1. *For Profit Rate is \$18.24 per hour, effective 7/1/2020*
  - ☐ Annual increases occur every July 1
2. *Nonprofit Rate is \$16.50 per hour*
  - ☐ 7/1/2021 and annually thereafter, increases shall be by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index
  - ☐ The City must appropriate funds for such increases
3. *Public Entities Rate is \$16.50 per hour*
  - ☐ Scheduled increases are subject to the City funding



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# MCO

## Time Off Requirements

### Paid Time Off (PTO)

0.04615 hours of **Paid Time Off (PTO)** per hour worked

- PTO can be used as vacation or sick leave.
- Must be vested and cashed out at termination





# MCO

## Time Off Requirements

### Unpaid Time Off (UTO)

0.0392 hours of **unpaid time off** allowed

- Allowed for **sick leave** for the covered employee, covered employee's spouse, domestic partner, child, parent, sibling, grandparent or grandchild.
- It is possible that your company may already have an unpaid leave policy that is in compliance with the unpaid time off requirements of the MCO.



Effective  
July 1<sup>st</sup> 2020

# MCO Rules and Regulations

- The July 2020 MCO Rules and Regulations includes clarification and details about how to comply with the MCO.
- Application of MCO to prime contractors and subcontractors
- Threshold for being a covered employer and covered employees
- MCO compensation rates, PTO, and UTO
- Paid Sick leave Ordinance (PSLO) preemption
- Notices and posters for employees



**Office of Labor Standards Enforcement**



# Integration of PSLO into MCO Rules and Regulations

Applies to work performed in San Francisco only

- Starting July 1, 2020, San Francisco Paid Sick leave Ordinance (PSLO) preemption requires that City Contractors may not provide a cash equivalent of PTO in lieu of sick leave required under the PSLO
- In other words, after the PTO hours for PSLO have been accounted for, firms may provide a cash equivalent to employees and pay out the remaining PTO hours when the employee separates from the employer.
- Visit the [PSLO](#) website for more details about determining the PSLO hours





# MCO Rules and Regulations

## Excluded Employees with Non-Profits

- 1) **Youth:** Non-profit employees are not a covered employee under the MCO if that employee is under the age of 18 and is claimed as a dependent for federal tax purposes and is employed as an after-school or summer employee.

Confirmation of the exclusion:

- The contracting department may obtain a letter from the employee's parents stating that the employee is a dependent for federal income tax purposes.
- The contracting department may retain documentation that the employee is under 18 and that the position is a summer or after-school position.





# MCO Rules and Regulations

## Excluded Employees with Non-Profits

- 2) **Trainees:** Non-profit employees are not a covered employee under the MCO if that employee is employed as a trainee in a bona fide training program consistent with federal law, and the training program enables the employee to advance into a permanent position.
- Bona fide vocational training program means:
    - A program authorized and approved by a state board of vocational education or other recognized educational body that provides for part-time employment training which may be scheduled for a part of the work day or workweek, for alternating weeks or for other limited periods during the year
    - AND
    - Supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college, or university.
  - Confirmation of exclusion: The contracting department may obtain the approval from state board of vocational education or other recognized educational body.



# MCO - Other Requirements

- Annual Posters
- Annual MCO Know Your Rights Forms
- MCO Rules and Regulations
- All posters and forms are on our website:  
[www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco)

## Minimum Compensation Ordinance (MCO) KNOW YOUR RIGHTS

This notice is intended to inform you of your rights under the Minimum Compensation Ordinance (MCO), Chapter 12P of the San Francisco Administrative Code. The MCO requires your employer to provide a prescribed minimum level of compensation be paid to employees of (1) contractors and their subcontractors providing services to the City and County; (2) public entities whose boundaries are coterminous with the City and County who have city contracts; and, (3) tenants and subtenants on Airport property and their subcontractors. The Office of Labor Standards Enforcement (OLSE) is charged with enforcing the MCO. You will be asked to sign this document after you have reviewed the following information. Do not sign this document unless you fully understand your rights under this law.

### THE MCO REQUIREMENTS

- 1. Minimum Hourly Wage**
  - For contracts entered into on or after October 14, 2007 and existing contracts amended on or after that date, the rate for for-profit contractors is \$13.34/hour effective January 1, 2016. Nonprofit contractors must pay the San Francisco minimum wage (\$13.00/hour effective July 1, 2016).
  - For contracts entered into prior to October 14, 2007, the rate for work performed within the City of S.F. is the San Francisco minimum wage (\$13.00/hour effective July 1, 2016). The rate for work performed outside of S.F. is \$10.77/hour.
  - Rates are subject to change. Your employer is obligated to keep informed of the requirements and to notify employees in writing of any adjustment to the MCO wage.
- 2. Paid Days Off**
  - 12 paid days off per year for vacation, sick leave or personal necessity
  - The paid days off for part-time employees are prorated based on hours worked
- 3. Unpaid Days Off**
  - 10 unpaid days off per year
  - Unpaid days off for part-time employees are prorated based on hours worked
  - Temporary and casual employees are not eligible for unpaid time off

### RETALIATION PROHIBITED

Your employer may not retaliate against you or any other employee for trying to learn more about the MCO or exercising your rights under the law. If you believe that you have been discriminated or retaliated against for inquiring about or exercising your rights under the MCO, contact the OLSE at (415) 554-7903 to file a MCO complaint.

Do not sign this document unless you fully understand your rights under this law. If you have any questions about your employer's responsibilities or your rights under this Ordinance, contact the OLSE at (415) 554-7903 or visit [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco) for more information about this law.

Print Name of Employee: \_\_\_\_\_

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

Para asistencia en Español, llame al (415) 554-7903

需要中文協助, 請電 (415) 554-7903

For a complete copy of the Minimum Compensation Ordinance, visit [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco).



# MCO: Penalties for Non-compliance

- Repay wages to employees, plus interest
- Restore PTO accruals to current employees
- Cash out unused PTO to former employees
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



# For More Information about MCO

[www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco)

(415) 554-7903

mco@sfgov.org







# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Health Care Accountability Ordinance (HCAO)



Office of Labor Standards Enforcement

# Health Care Accountability Ordinance (HCAO)

## Contract Requirement

- Applies to contract for services and leases.
- Grants are exempt from HCAO but company may need to comply with HCSO (CCSF citywide labor law)

# Health Care Accountability Ordinance (HCAO)

## **HCAO: Covered Employer**

- For-profit with more than 20 employees (anywhere), or nonprofit with more than 50 – includes subcontractors
- with a City contract
- or a lease on City property (including SFO and SF Port)

## **HCAO: Covered Employee/Worker**

- Anyone working for a covered employer on a City contract at least 20 hours a week



# HCAO Requirements

*Employer must choose one of the following options that fit the situation/employee:*

1. Offer each covered employee a compliant health plan at no charge to the employee - no later than the first of the month after 30 days. See Minimum Standards for health plan

OR

2. Pay \$5.60 per employee per hour to SF General Hospital (not Healthy SF)

- Rate adjusted every July 1
- Fee goes to SF General Hospital – not a benefit or \$ for worker (this is NOT Healthy San Francisco)

OR

3. Pay an additional \$5.60 per hour worked to the employee

- This is only for employees who work on a contract outside of the City, NOT at the San Francisco International Airport or the San Bruno Jail



# Other Compliance Requirements

- Posters and Forms
- HCAO Rules and Regulations
- All posters, forms, more information on our website: [www.sfgov.org/olse](http://www.sfgov.org/olse)



# HCAO: Penalties for Non-compliance

- Pay HCAO Fee Owed to SF General Hospital and/or employee
- Reimburse employees out-of-pocket medical expenses (i.e. insurance premiums)
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



# For More Information about HCAO

[www.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao)

(415) 554-7903

hcao@sfgov.org







# Questions?

Send us your questions in the Q&A Box



**Office of Labor Standards Enforcement**



# Health Care Security Ordinance (HCSO)



Office of Labor Standards Enforcement

# Health Care Security Ordinance (HCSO)

- Citywide Labor Law for businesses operating in CCSF
- This is the health care law if you have a grant
- The HCSO 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 employees in **ALL** locations throughout the world, not only San Francisco

## Nonprofit employers:

50+ persons perform work per week in the quarter

## For-profit employers:

20+ persons perform work per week in the quarter



# How to Satisfy the Employer Spending Requirement?

- 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
  - Medical Reimbursement Account (MRA)
  - Healthy San Francisco
  - Covered MRA
- Contribute to a Health Savings Account, Medical Savings Account, or other irrevocable reimbursement account
- Combination of these options



# Employer Spending Requirement

Employer Size	Number of Workers	2020 Expenditure Rate	2019 Expenditure Rate
Large	All employers w/ 100+ workers	\$3.08 per hour payable	\$ 2.93 per hour payable
Medium	Businesses w/ 20-99 workers Nonprofits w/ 50-99 workers	\$2.05 per hour payable	\$1.95 per hour payable
Small	Businesses w/ 0-19 workers Nonprofits w/ 0-49 workers	Exempt	Exempt

***\*Health Care Expenditure Rates Change Annually on January 1\****



# Employer Spending Requirement

- Health Care Expenditure Rates

Employer Size	2020	2019
Large (100+ Employees)	\$3.08/hr	\$2.93/hr
Medium (20-99 Employees)	\$2.05/hr	\$1.95/hr

***\*Health Care Expenditure Rates Change Annually – January 1\****

- What this looks like for a FULL TIME employee (172h/mo):

Employer Size	Cost based off 2020 Rate
Large (100+ employees)	\$529.76/mo or \$1,589.28/Q
Medium (20-99 employees)	\$352.60/mo or \$1057.80/Q



# HCSO Resources

- **Sign up for HCSO updates**

<https://sfgov.org/olse/email-sign-employers-20-or-more-employees>

- **OLSE/HCSO** <https://sfgov.org/olse/health-care-security-ordinance-hcso>

- Administrative Guidance
- OLSE Official Notices
- Annual Reporting Form
- Employee Voluntary Waiver Form

- **Attend SF City Option Webinar**
- **Email us:** [HCSO@sfgov.org](mailto:HCSO@sfgov.org)
- **HCSO Hotline: (415) 554-7892** (English, Spanish, Chinese)





# HCAO

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- Applies to City Contractors or Lessees
- Applies to employees working at least 20 hours a week on the contract or City property
- Requires a minimum standard insurance plan or fee payment to SF General Hospital/employee
- Employee has no waiting period for coverage

# HCSO

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- Applies to employees working at least 8 hours a week in CCSF, who are not covered under the HCAO
- Employees who work 8 to 19 hours per week in the City and County of San Francisco
- Has a spending requirement
  - An employer can choose how to spend the money (e.g. Health Insurance, City Option, etc.)
- Employee has a 90 day waiting period for coverage



# MCO/HCAO Compliant Wages and Benefits

	For-Profit	Non-Profit	Public Entity
Wage	\$18.24	\$16.50	\$16.50
PTO	\$0.84	\$0.76	\$0.76
HCAO	\$5.60	\$5.60	\$5.60
Total	\$24.68	\$22.86	\$22.86

- PTO is a required accrual of hours. PTO figure is a monetized value of the accrual.
- HCAO amount represents the most an employer would need to spend to comply with the requirement.
- Unpaid time off has no monetary value.



# MCO/HCSO Compliant Wages and Benefits

	For-Profit	Non-Profit	Public Entity
Wage	\$18.24	\$16.50	\$16.50
PTO	\$0.84	\$0.76	\$0.76
HCSO	\$3.18	\$3.18	N/A
Total	\$22.26	\$20.44	\$17.26

- PTO is a required accrual of hours. PTO figure is a monetized value of the accrual.
- HCSO amount represents the most an employer would need to spend to comply with the requirement (100+ employees for 2021 year).
- Unpaid time off has no monetary value.



# Enforcement

- OLSE conducts random audits and investigate complaints
- Complaints from workers have priority
- Voluntary Audits
- Audit covers all employees (current and terminated)
- Examination of all relevant payroll records and other employment documents
- Site visits
- Documentary evidence helps
  - Copy of Know Your Rights Forms
  - HCAO Voluntary Waiver Forms
  - pay stubs
  - employee manual
  - benefit offerings



# More on OLSE Investigation:



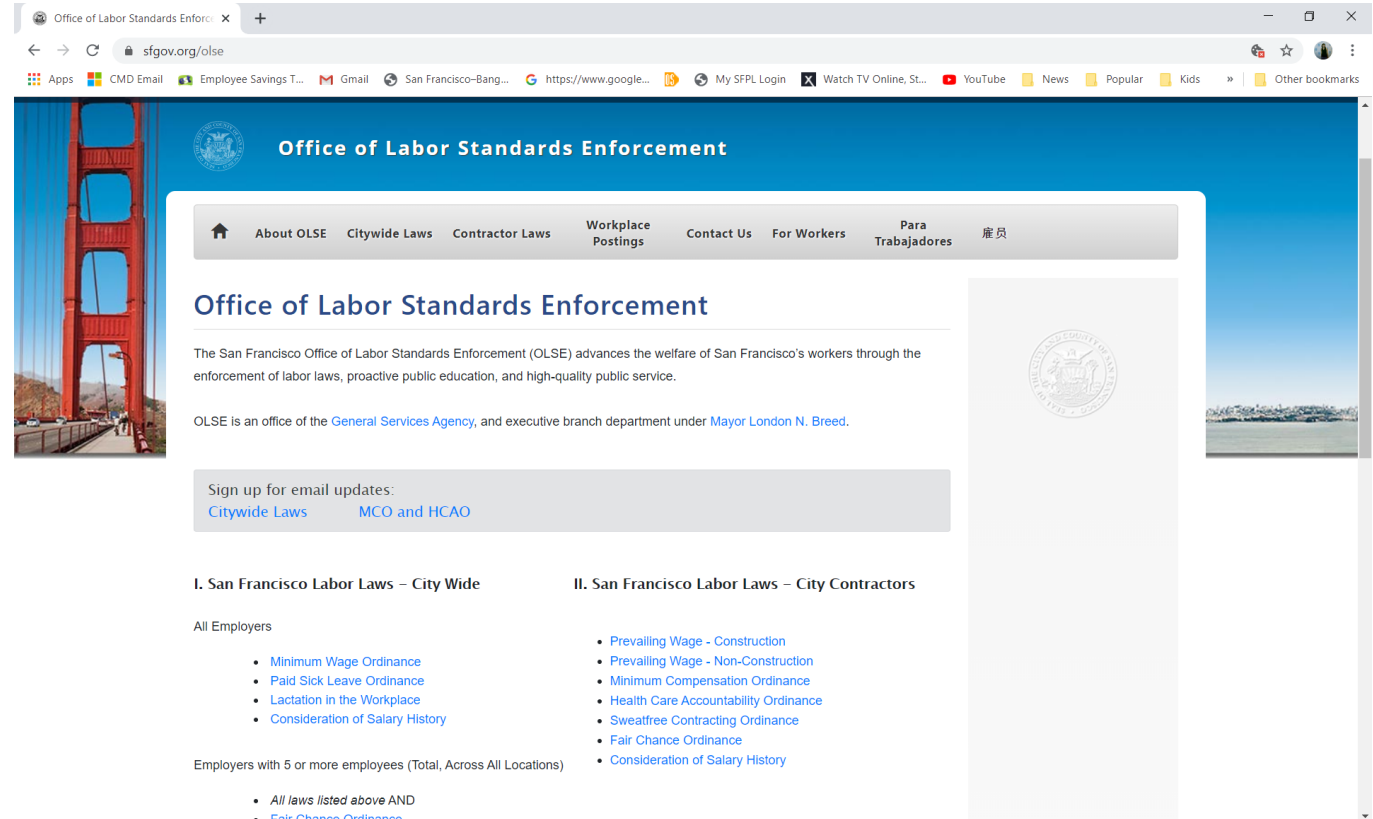
- Keep documents at least 3 years after contract/lease
- Confidential interviews and surveys of former and current employees
- Employer cooperation with the investigation is a condition of the contract or lease
- Department will be CC'd on milestone documents/communication such as initial emails to establish contact, audit letter, Notice of Violation, closure letter, etc.



# OLSE Website

- Employer Resources
  - Posters
  - Forms
  - FAQs
  - Legislative Texts and Rules and Regulations
  - Webinar Recordings
  - Upcoming trainings/events
  - Contact Information


[www.sfgov.org/olse](http://www.sfgov.org/olse)




# How to stay up to date?

Sign up for email updates at  
[www.sfgov.org/olse](http://www.sfgov.org/olse)





 [About OLSE](#) [Citywide Laws](#) [Contractor Laws](#) [Workplace Postings](#) [Contact Us](#) [For Workers](#) [Para Trabajadores](#) [雇员](#)

## Office of Labor Standards Enforcement

The San Francisco Office of Labor Standards Enforcement (OLSE) advances the welfare of San Francisco's workers through the enforcement of labor laws, proactive public education, and high-quality public service.

OLSE is an office of the [General Services Agency](#), and executive branch department under [Mayor London N. Breed](#).

Sign up for email updates:

[Citywide Laws](#) [MCO and HCAO](#)

### I. San Francisco Labor Laws – City Wide

All Employers

- [Minimum Wage Ordinance](#)
- [Paid Sick Leave Ordinance](#)
- [Lactation in the Workplace](#)
- [Consideration of Salary History](#)

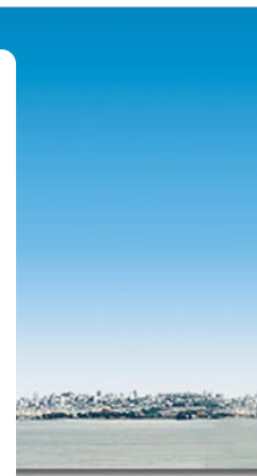

Employers with 5 or more employees (Total, Across All Locations)

- All laws listed above AND*
- [Fair Chance Ordinance](#)

Employers with 20 or more employees (Total, Across All Locations)

### II. San Francisco Labor Laws – City Contractors

- [Prevailing Wage - Construction](#)
- [Prevailing Wage - Non-Construction](#)
- [Minimum Compensation Ordinance](#)
- [Health Care Accountability Ordinance](#)
- [Sweatfree Contracting Ordinance](#)
- [Fair Chance Ordinance](#)
- [Consideration of Salary History](#)



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# Shinji Sakai-Egi

Compliance Officer for MCO and HCAO

City and County of San Francisco

Office of Labor Standards Enforcement (OLSE)

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-6492

Fax: (415) 554-6291

Email: [shinji.sakai-egi@sfgov.org](mailto:shinji.sakai-egi@sfgov.org)



# Beverly Popek

Supervising Compliance Officer

City and County of San Francisco

Office of Labor Standards Enforcement (OLSE)

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-6238

Fax: (415) 554-6291

Email: [beverly.popek@sfgov.org](mailto:beverly.popek@sfgov.org)



# Contact OLSE

Office of Labor Standard Enforcement – MCO HCAO Hotline

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-7903

Fax: (415) 554-6291

Email: [mco@sfgov.org](mailto:mco@sfgov.org), [hcao@sfgov.org](mailto:hcao@sfgov.org)

Website: [www.sfgov.org/olse](http://www.sfgov.org/olse)

MCO

<http://sfgov.org/olse/minimum-compensation-ordinance-mco>

HCAO

<http://sfgov.org/olse/health-care-accountability-ordinance-hcao>





# Questions?

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**Office of Labor Standards Enforcement**