



CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF LABOR STANDARDS ENFORCEMENT

FY 2019-2020 ANNUAL REPORT





This year marks the 20th anniversary of the Office of Labor Standards Enforcement. Established through legislative action by the San Francisco Board of Supervisors, OLSE was initially responsible for prevailing wage requirements and has since expanded to include enforcement authority for 30 different labor laws.

Over the past two decades the office has initiated more than 3,500 investigations and collected a total of \$78 million in restitution for San Francisco workers.

OLSE respectfully submits this report to the Board of Supervisors to satisfy the reporting requirements of the Minimum Wage, Minimum Compensation, Health Care Accountability, Fair Chance, and Formula Retail ordinances, and to summarize OLSE's outcomes for Fiscal Year 19-20.

Report Highlights

Record Collections for Workers

OLSE collected a total of \$14.7 million in restitution, fees, and penalties:

- \$13.8 million in restitution for 4,165 workers in FY19-20 – the highest ever
- \$868,387 in penalties and fees for the City

More Cases Resolved

- OLSE completed 296 cases in FY19-20, more than in any prior year
- Opened 278 cases, the second highest in the agency's history

Reinventing Public Engagement

In FY19-20, OLSE implemented a strong and versatile program of education and technical assistance to inform employers and workers about local labor laws. As of March, 2020, OLSE successfully moved outreach events to a virtual format. Overall, the office achieved over 53,000 points of contact during the year:

- Presented to 5,975 employers and community groups through City contractor meetings, live and pre-recorded OLSE webinars, and in-person workshops
- Answered 6,586 telephone calls through OLSE's multilingual labor law hotlines
- Engaged 4,773 employees through OLSE's community-based outreach contract
- Mailed San Francisco's labor law posters to 37,157 employers

New Public Health Protections

In FY19-20, OLSE implemented three new policies to protect workers during the COVID-19 public health crisis:

- Public Health Emergency Leave Ordinance - Effective April 17, 2020
- Employee Protections Ordinance - Effective May 1, 2020
- Health Plan Requirements for Specified COVID-19 Essential Services Contracts - Effective May 13, 2020

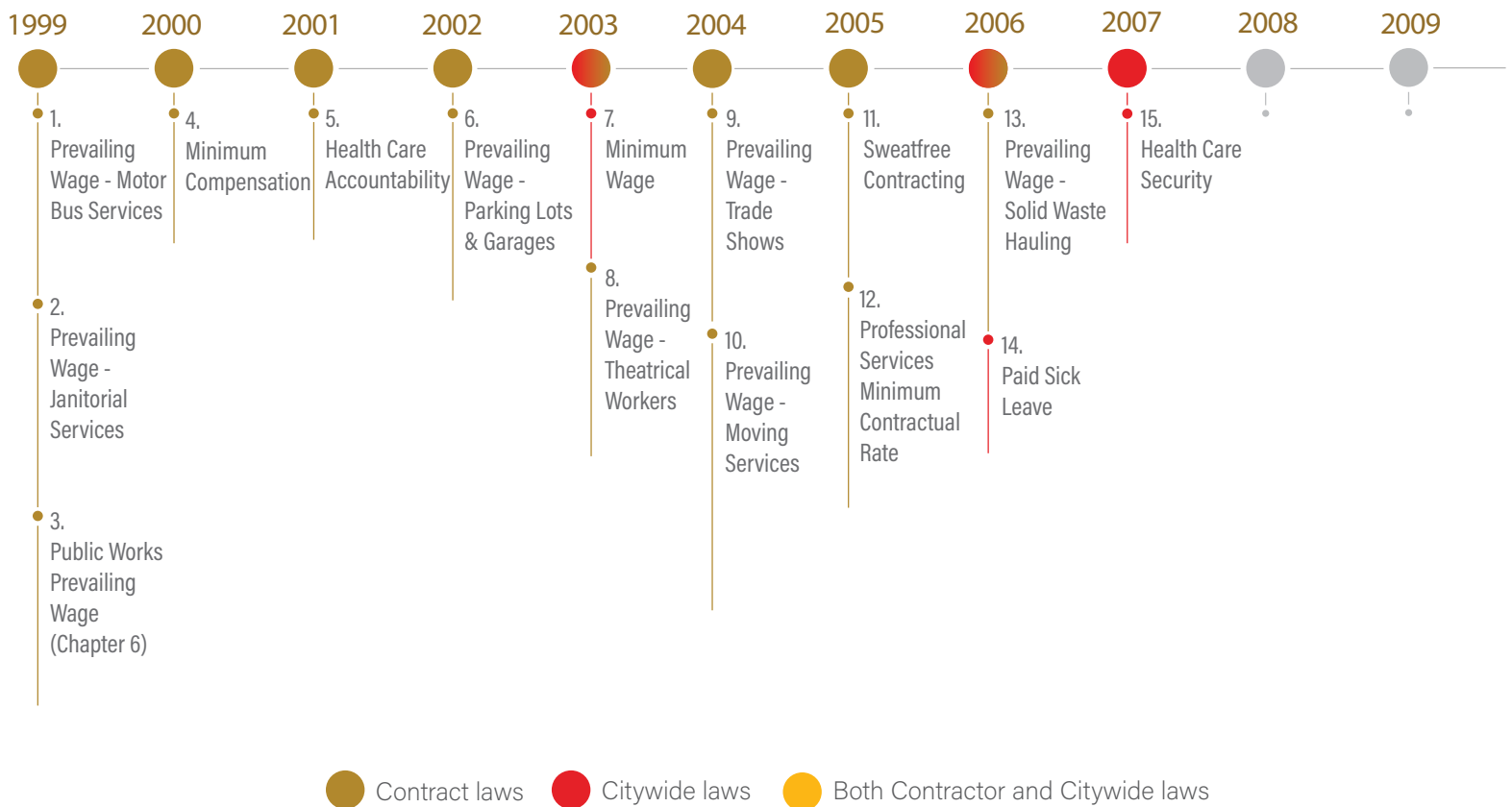
Note that OLSE also implemented the COVID-Related Employment Protections Ordinance, effective September 11, 2020 to January 9, 2021, and is working to implement the Healthy Airport Ordinance, effective March 21, 2021.

I. BACKGROUND

San Francisco voters and the Board of Supervisors have adopted an extraordinary array of groundbreaking labor policies over the past 20 years. San Francisco was the first city in the nation to implement its own minimum wage, paid sick leave, health care, formula retail, and paid parental leave ordinances.

There are now over 50 U.S. cities and counties with their own minimum wage laws, and over 30 U.S. states, cities, and counties have followed San Francisco's lead to adopt their own paid sick leave laws. Also, a growing number of U.S. cities, including New York, Chicago, and Seattle, have adopted fair workweek laws modeled after San Francisco's formula retail ordinance.

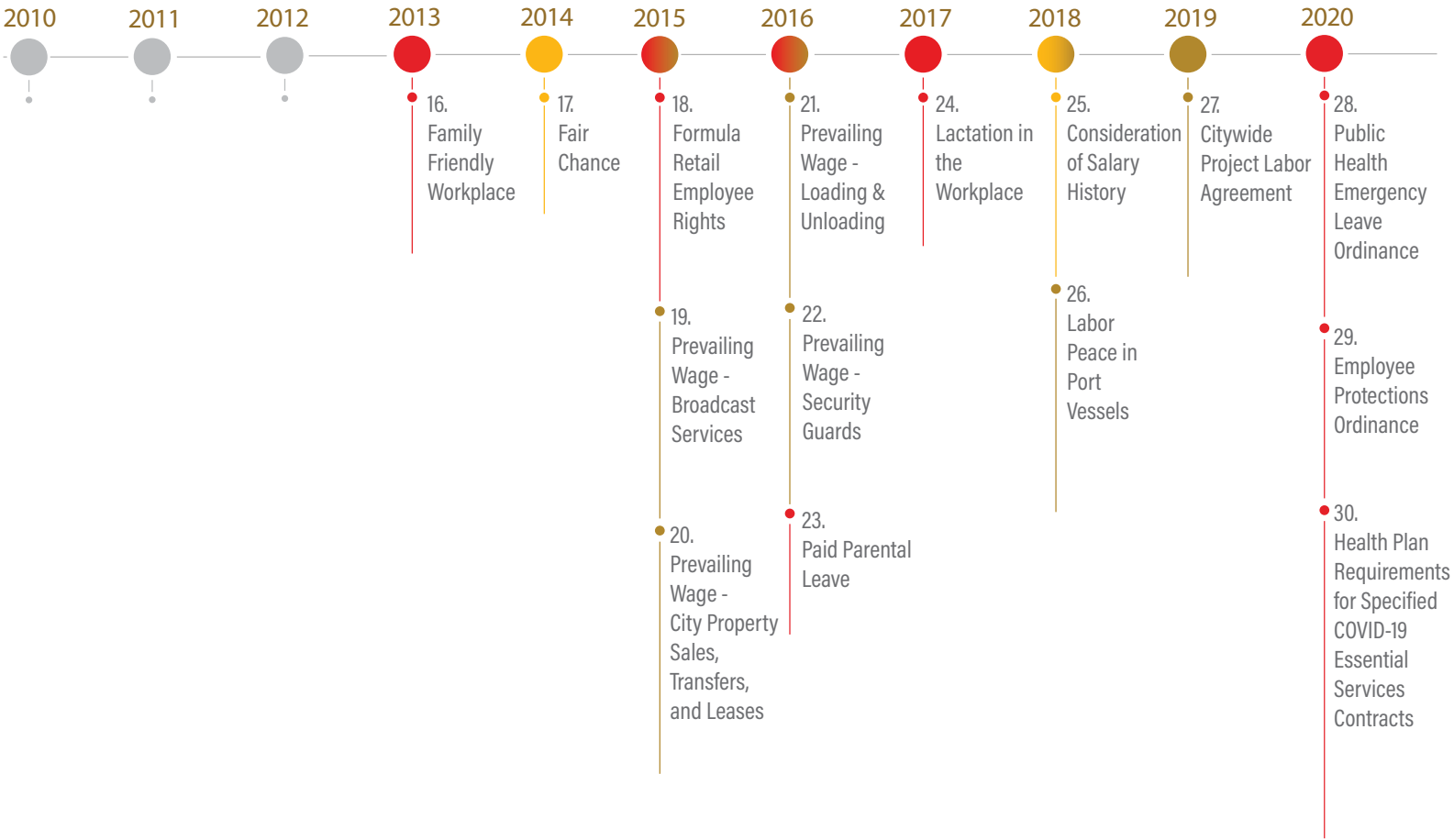
Most recently, San Francisco has adopted new labor policies to protect workers during the COVID-19 public health crisis. OLSE has implemented a series of temporary emergency measures that provide additional paid leave, health care, reimbursement for protective equipment, as well as other benefits.



A timeline of San Francisco’s labor laws is provided below. Some of these laws apply only to City contracts, leases, or permits, while others apply to employers citywide. Appendix A provides a summary of the labor laws that OLSE enforces.

Note that the timeline shows the initial passage of each law – subsequent amendments are not included. For instance, the Healthy Airport Ordinance, passed by the Board of Supervisors in November 2020, is not shown because it amends the Health Care Accountability Ordinance, originally passed in 2001.

New state and federal legislation also impacted the scope of San Francisco’s labor laws. For example, the passage of Assembly Bill-5 and Proposition 22 regarding worker classification affected the application of all of OLSE’s laws. Similarly, the extension of the State’s Paid Family Leave benefits from 6 to 8 weeks led to the expansion of employer benefits under the San Francisco Paid Parental Leave Ordinance. These legislative changes are not reflected in the timeline below.



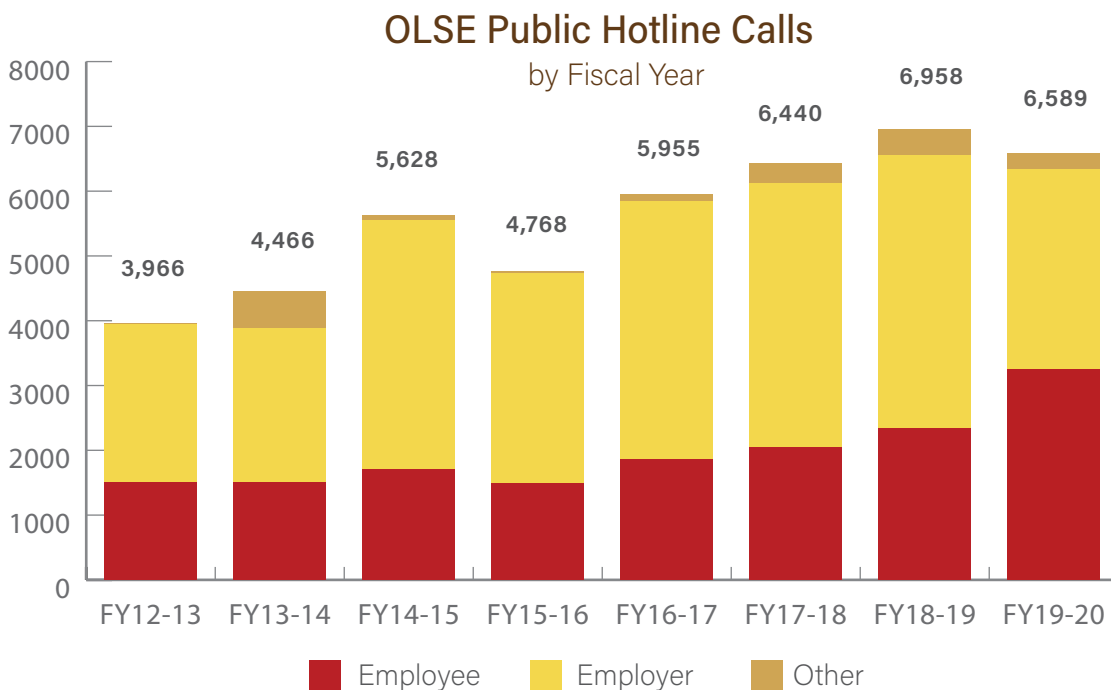
II. REINVENTING PUBLIC ENGAGEMENT

As the COVID-19 health directives reshaped our lives and economy, OLSE made changes to best support public engagement regarding San Francisco labor laws. As of March, 2020, OLSE successfully moved outreach events to a virtual format and connected our public telephone hotlines to OLSE staff working remotely. OLSE also partnered with community organizations to expand social media outreach to workers.

Multilingual Telephone Hotlines

OLSE maintains 12 separate multilingual telephone hotlines, each dedicated to a specific ordinance or policy area. Callers may opt to receive assistance in English, Spanish, Cantonese, Mandarin, or Filipino.

OLSE has provided uninterrupted staffing of these hotlines, even as OLSE transitioned to remote operations in March 2020. In fact, OLSE staff answered more calls each month after the COVID-19 state of emergency declaration than before. The increase was primarily due to a spike in questions about paid sick leave and emergency leave provisions.



The overall call volume is slightly lower than last year's historic high due to the emergency waiver of the City's annual reporting requirements under the Health Care Security and Fair Chance ordinances. OLSE usually receives nearly 1,000 calls related to these reporting requirements.

OLSE Public Hotline Calls by Topic and Language, FY 19-20

Ordinance	English	Spanish	Chinese*	Other	Total
Health Care Security	1,833	60	82	3	1,978
Paid Sick Leave	971	46	3	1	1,021
Paid Parental Leave	832	37	5	3	877
Non-OLSE Topics	643	40	16	1	700
Minimum Compensation and Health Care Accountability	618	32	6		656
Public Health Emergency Leave	497	40	14		551
Prevailing Wage	332	1	1		334
Minimum Wage	231	19	6		256

*includes Cantonese, Mandarin, and Others

Employer Outreach

OLSE is committed to providing proactive informational outreach to employers. In FY19-20, staff interacted with 47,905 employers and community group representatives, including:

- 4,219 vendor representatives at pre-bid meetings and other City contracting meetings.
- 1,249 employer representatives through OLSE's live and pre-recorded webinars.
- 330 employers at two in-person workshops hosted by OLSE focusing on prevailing wage and family leave requirements.
- 37,157 employers through OLSE's annual mailing of the required labor law postings and summary of all San Francisco labor laws.

Community Outreach

OLSE maintains a community outreach program designed to reach the workers who are most likely to be victims of wage theft and other labor law violations. OLSE contracts with Chinese Progressive Association and its subcontractors (Asian Law Caucus, Dolores Street Community Services, Filipino Community Center, La Raza Centro Legal, South of Market Community Action Network, and Trabajadores Unidos/Workers United). These organizations disseminate information on worker's rights in low-income and immigrant communities, provide individualized worker rights consultations, and encourage workers to file complaints regarding violations of the law.

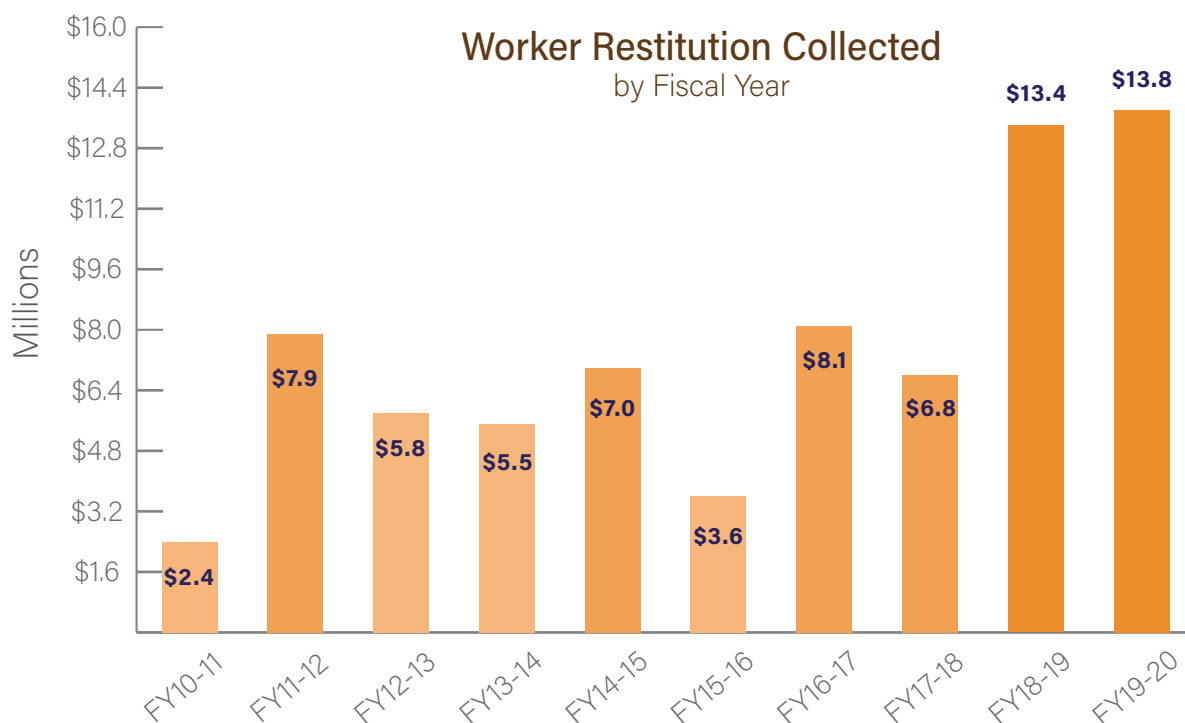
In FY19-20, OLSE's community contractors reported outreach to 4,773 workers and provided individual consultations on labor rights to 954 workers. After March 2020, much of this outreach was conducted by phone or through social media, such as Facebook Live and WeChat.

III. RECORD COLLECTIONS FOR WORKERS

OLSE reached several milestones in FY19-20. The agency collected more in overall worker restitution than in any prior year. Included in this figure are record collections for Health Care Security Ordinance (HCSO), Formula Retail Employee Rights Ordinance (FRERO), and Paid Parental Leave Ordinance (PPLO).

In all, OLSE collected \$13.8 million in restitution for 4,165 workers. This amount represented a 3% increase over FY18-19. The total included back wages, benefits, penalties, and interest paid to workers. It reflected actual payments made by employers for current and former employees and does not include amounts assessed but not yet paid. Half of the restitution (\$7.1 million) was distributed to workers during the state of emergency - between February 25 and the end of the fiscal year.

Unlike in some prior years, OLSE's outcomes were not driven by any particular outlier - only one settlement provided more than a million dollars in restitution. Last year, in contrast, restitution was boosted by three cases of more than a million dollars that together accounted for \$4.4 million of the \$13.4 million total.



In FY19-20, OLSE collected \$9.9 million in restitution for HCSO cases. HCSO restitution comprised 72% of OLSE's total for the year. Policies like the HCSO that protect employee health benefits are more important than ever in light of the current public health crisis.

OLSE also achieved notable successes in the enforcement of FRERO and PPLO. After settling the office's first FRERO case last year, OLSE resolved six cases totaling \$1.1 million in employee restitution. In addition, OLSE collected more than \$300,000 in PPLO restitution for workers, up from \$15,000 in FY18-19.

Finally, OLSE settled a landmark case with Instacart that resulted in \$724,213 in restitution payments to 900 workers. This case had national significance because it represented one of the first comprehensive settlements with an app-based business for labor violations.

FY19-20 Restitution by Law

Ordinance(s)	Amount	Workers Affected
Health Care Security Ordinance	\$9,901,920	2,159
Formula Retail Employee Rights Ordinances	\$1,111,610	361
Prevailing Wage	\$1,076,113	671
Minimum Compensation & Health Care Accountability Ordinances	\$789,870	711
Minimum Wage & Paid Sick Leave Ordinances	\$609,908	233
Paid Parental Leave	\$306,668	30
Total Restitution for Workers	\$13,796,089	4,165

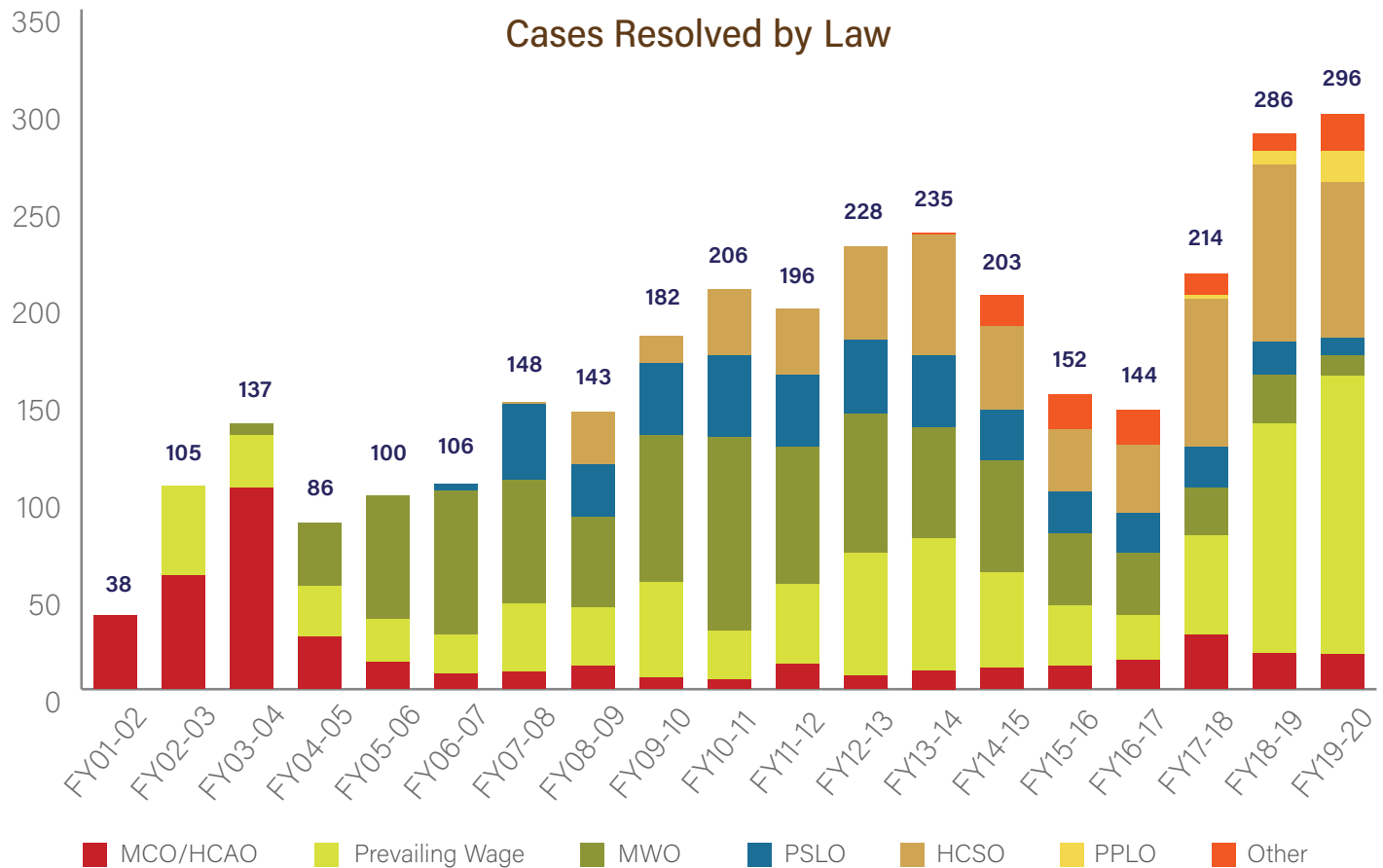
Not included in this chart is the restoration of paid sick leave balances mandated through enforcement actions. OLSE restored a total of 4,036 paid sick leave and paid time off hours to San Francisco workers in FY19-20.

Penalties & Fees Collected

OLSE collected \$868,387 in penalties and fees in FY19-20, exceeding our budget of \$525,000. Employers paid \$814,387 in penalties to the City's General Fund, the second highest amount in OLSE history. Additionally, OLSE collected \$54,000 in fees for the Department of Public Health through enforcement actions under the Health Care Accountability Ordinance.

IV. MORE CASES RESOLVED

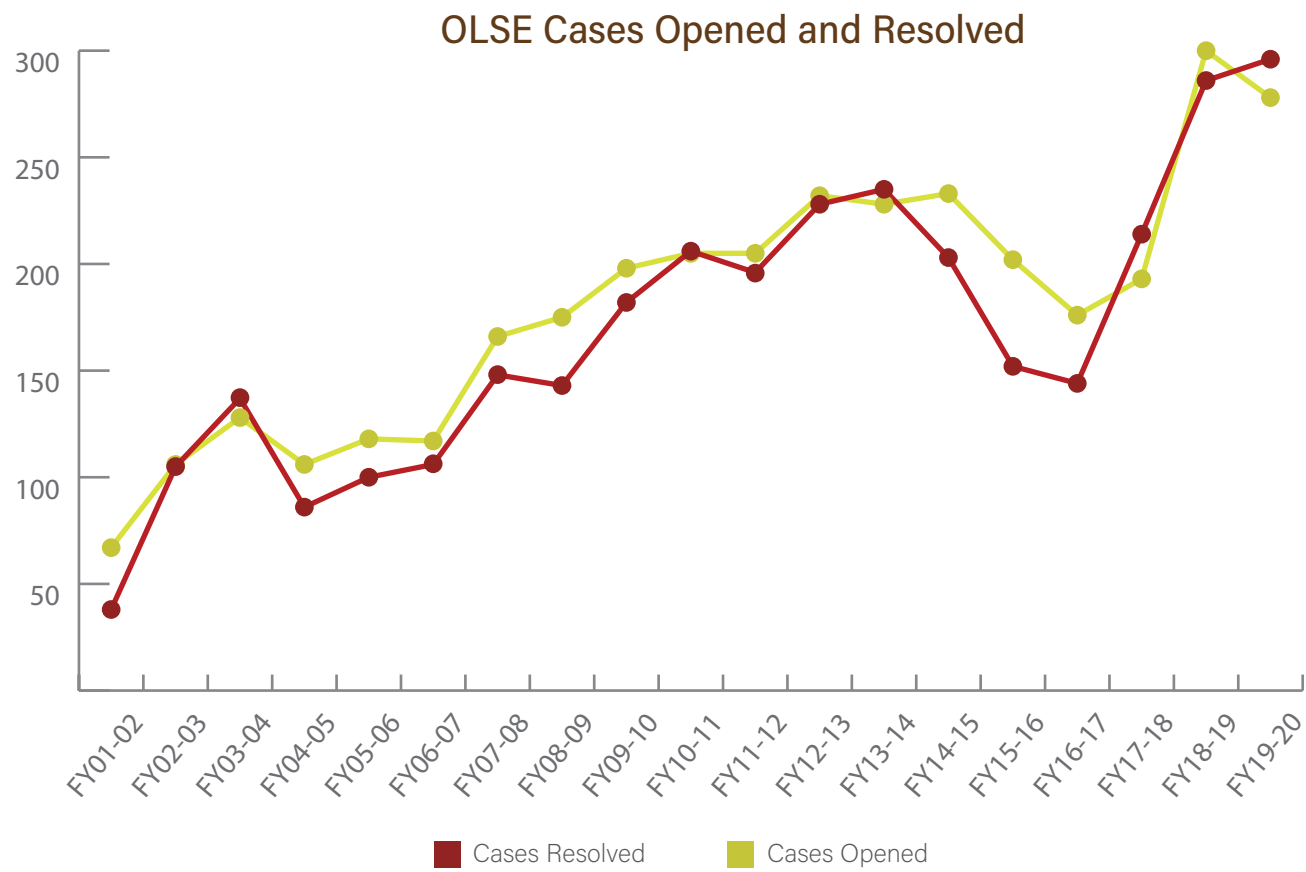
OLSE resolved 296 cases in FY 19-20, more than ever before. This success was driven in part by the support of the City Attorney's office in the completion of many long-running and complicated cases. During the year, OLSE reached final resolution in 18 cases that were opened in 2016 or earlier, many including multi-year payment plans and complex legal issues.



With the benefit of new staff and expanded enforcement responsibilities, the number of completed prevailing wage cases has nearly tripled in two years. After retirements and transitions between 2014 and 2016, OLSE's prevailing wage team is now fully staffed and has taken on the responsibility for prevailing wage enforcement for the Mayor's Office of Housing and Community Development (MOHCD), as well as the administration of the new Citywide Project Labor Agreement (PLA).

Cases Opened

OLSE initiated 278 investigations in FY19-20, the second highest amount of any year since the office was established. The office saw a slight decline in new complaints from the prior year, likely due to the state of emergency and subsequent business closures.



V. SWEATFREE CONTRACTING ORDINANCE

San Francisco's Sweatfree Contracting Ordinance, adopted by the Board of Supervisors in 2005, prohibits contractors supplying textiles and garments to the City from engaging in specified labor and human rights abuses. The ordinance also established the Sweatfree Procurement Advisory Group, which advises the City on implementation of the law.

OLSE has contracted with the Worker Rights Consortium (WRC) to conduct factory inspections under the ordinance. In FY19-20, WRC completed three reports on factory working conditions – for factories in Vietnam, Myanmar (Burma), and the Dominican Republic. Based on its findings, Worker Rights Consortium has continued to work directly with the factories in Vietnam and Myanmar (Burma) to improve working conditions.

WRC was denied access to the Dominican Republic factory by its owner, Propper International, a violation of the ordinance. In response, the City's Office of Contract Administration, in coordination with OLSE and the Sweatfree Procurement Advisory Group, recently removed Propper International from the contract, marking the first time that the City sanctioned a contractor for a violation of the law.

VI. NEW PUBLIC HEALTH PROTECTIONS

In FY19-20, the Board of Supervisors and Mayor Breed approved three emergency labor policies to help address the COVID-19 crisis:

- Public Health Emergency Leave Ordinance - Effective April 17, 2020;
- Employee Protections Ordinance - Effective May 1, 2020; and
- Health Plan Requirements for Specified COVID-19 Essential Services Contracts - Effective May 13, 2020.

OLSE rapidly developed administrative guidance for these emergency policies. Additionally, the office responded to a large volume of questions about these new laws, including 552 calls on public hotlines.

VII. LOOKING FORWARD

As San Francisco gradually emerges from the COVID-19 pandemic and corresponding economic crisis, OLSE continues to break new ground in the enforcement of labor laws and advocacy for workers' rights. By successfully partnering with the City Attorney's Office and local community groups, the office works to ensure a level playing field for responsible businesses while supporting the best possible outcomes for San Francisco workers.

In 2021 OLSE will continue to roll out new innovative policies developed by the Mayor and Board of Supervisors with a constant focus on educational outreach and technical assistance. Through fair and equitable enforcement actions, the office will always prioritize getting restitution funds back into the hands of workers as soon as possible.

Ultimately, as more establishments reopen and employees return to work, OLSE will partner with businesses, organized labor, community groups and our City family to support a strong culture of compliance such that everyone may be elevated together.



Appendix A: OLSE Laws Overview

Part 1: San Francisco's Citywide Labor Laws

San Francisco Ordinance	Purpose	Employers Covered
Minimum Wage	Requires employers in San Francisco to pay employees no less than to \$16.07 as of July 1, 2020. The rate will increase based on the Consumer Price Index increase on July 1, 2021.	All employers with employees in San Francisco.
Paid Sick Leave	Requires employers to provide employees paid sick leave for employees' own care and to care for a family member or designated person.	All employers with employees in San Francisco.
Lactation in the Workplace	Requires employers to provide employees with breaks and appropriate space to express breast milk.	All employers with employees in San Francisco.
Health Care Security	Requires employers to spend a minimum hourly amount on health care for each covered employee.	For-profit employers with 20 or more workers worldwide and non-profits with 50 or more workers worldwide.
Paid Parental Leave	Requires employers to provide supplemental compensation to employees receiving California Paid Family Leave benefits to bond with a new child.	Employers with 20 or more employees worldwide.
Family Friendly Workplace	Requires employers to consider requests for flexible or predictable work arrangements from employees with caregiving responsibilities.	Employers with 20 or more employees worldwide.
Formula Retail Employee Rights	Regulates scheduling, part-time work, and hiring at large chain businesses.	Formula retail employers with 40 or more locations worldwide and 20 or more employees in San Francisco.
Contractor Minimum Compensation 12V	Requires contracting entities to pay independent contractors no less than the SF minimum wage.	

Public Health Emergency Leave April 17, 2020	Provides up to 80 hours of paid leave that employees may use when they are unable to work (or telework) for specified reasons related to COVID-19.	Businesses with 500 or more employees worldwide.
Employee Protections Ordinance May 1, 2020	Provides health and safety protections for workers, including the provision of protective equipment, social distancing, and “no contact” delivery options.	On-Demand Delivery Services.
COVID-Related Employment Protections September 11, 2020	Protects workers from losing their jobs (and other adverse action) for reasons related to COVID-19, including testing positive or quarantining due to COVID-19 symptoms or exposure.	All employers with employees in San Francisco.

Part 2: San Francisco Labor Laws that Apply Citywide and to City Contracts

San Francisco Ordinance	Purpose	Employers Covered
Fair Chance	Regulates employers' use of arrest and conviction records in hiring and employment decisions.	All employers with 5 or more employees worldwide and City Contractors of any size.
Consideration of Salary History	The Consideration of Salary History Ordinance bans employers from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant.	All employers with employees in San Francisco and City contractors.

Part 3: San Francisco Labor Laws that Apply to Contracts

San Francisco Ordinance	Purpose	Employers Covered
Chapter 6 Prevailing Wage Enforcement Authority	Requires public works contractors to pay prevailing wage & fringe benefit rates set by the California Department of Industrial Relations for more than 60 classifications.	Public Works contractors.

Chapter 23 Prevailing Wage for City Property Sales, Transfers & Leases	Requires an entity that buys, leases or receives a transfer of City property to abide by prevailing wage requirements for construction & maintenance of that property.	Entities that buy, lease or receive a transfer of City property.
21C.1 Motor Bus Services Prevailing Wage	Requires motor bus service contractors to pay prevailing wage rates set by the Board of Supervisors.	Motor bus services contractors.
21C.2 Prevailing Wage for Janitorial Service	Requires janitorial service contractors to pay prevailing wage rates set by the Board of Supervisors.	Janitorial services contractors.
21C.3 Prevailing Wage for Parking Lots and Garages	Requires contractors with employees performing work in public off-street parking lots, garages or auto storage facilities to pay prevailing wage rates set by the Board of Supervisors.	Contractors with employees performing work in public off-street parking lots, garages or auto storage facilities.
21C.4 Prevailing Wage for Theatrical Workers	Requires covered employers to pay prevailing wage rates set by the Board of Supervisors to individuals engaged in theatrical or technical services related to the presentation of a show.	Contractors, leaseholders, and permit holders with theatrical workers.
21C.5 Prevailing Wage for Workers Engaged in Solid Waste Hauling	Requires City contractors pay prevailing wage rates set by the Board of Supervisors to workers engaged in hauling of solid waste.	Contractors with workers engaged in hauling of solid waste.
21C.6 Prevailing Wage for Moving Services	Requires moving services contractors to pay prevailing wage rates set by the Board of Supervisors.	Moving services contractors.
21C.8 Prevailing Wage for Trade Show & Special Event Work	Requires covered employers to pay prevailing wage rates set by the Board of Supervisors to individuals engaged in exhibit, display, or trade show work at a special event.	Contractors, leaseholders, permit holders with workers engaged in exhibit, display, or trade show work at a special event.
21C.9 Prevailing Wage for Broadcast Services on City Property	Requires covered employers to pay prevailing wage rates set by the Board of Supervisors to individuals engaged in broadcast services on City property.	Contractors, leaseholders, permit holders with workers engaged in broadcast services on City property.

21C.10 Prevailing Wage for Loading & Unloading	Requires covered employers to pay prevailing wage rates set by the Board of Supervisors to individuals engaged in specified loading or unloading work.	Contractors, leaseholders, permit holders with workers engaged in loading or unloading on City property into or from a commercial vehicle related to a show or special event.
21C.11 Prevailing Wage for Security Guard Services	Requires covered employers to pay prevailing wage rates set by the Board of Supervisors to individuals providing security guard services.	Security guard service providers in City contracts or for events on City property.
Minimum Compensation Ordinance (MCO)	Requires contractors to pay a minimum compensation rate and to provide paid and unpaid time off.	City service contractors with 5 or more employees.
Health Care Accountability Ordinance (HCAO)	Requires contractors to provide health benefits that meet the minimum standards set by the City.	City service contractors with 20 or more employees (and nonprofits with 50 or more).
Sweatfree Contracting Ordinance	Prohibits contractors that supply textiles & apparel from manufacturing those goods in sweatshop conditions.	City contractors that supply textiles & apparel.
Labor Peace Agreement for Port Vessel Operations	Requires Labor Peace Agreements between employers operating excursion vessels under a Port lease and labor organizations.	Employers operating excursion vessels.
Citywide Project Labor Agreement	Contractors performing trade work on covered projects are required to: (1) utilize union hiring halls to hire workers and apprentices; and (2) pay fringe benefit contributions to union trust fund programs.	Contractors on public works projects issued by SF Public Works and Recreation & Parks Dept. that meet specified dollar thresholds.
Health Plan Requirements for Specified COVID-19 Essential Services Contracts	Covered contractors must offer their covered employees and covered employees' dependents health plan benefits that meet the minimum standards prepared by the Health Director.	City contractors that enter into a COVID-19 essential services contract for food service, delivery of food, janitorial services.

Appendix B: MCO & HCAO Waivers

OLSE has authority to waive the requirements of the Minimum Compensation Ordinance and the Health Care Accountability Ordinance under the narrow circumstances specified in Administrative Code Chapters 12P and 12Q. Administrative Code Sections 12P.6(a) and 12Q.5(d) require OLSE to report on the number of MCO and HCAO waivers granted each year. Waivers granted in the last 10 fiscal years are as follows:

Fiscal Year	MCO Waivers Granted	HCAO Waivers Granted
FY08-09	3	3
FY09-10	2	2
FY10-11	0	0
FY11-12	3	3
FY12-13	2	3
FY13-14	6	8
FY14-15	5	3
FY15-16	2	3
FY16-17	3	4
FY17-18	3	4
FY18-19	3	3
FY19-20	3	5
TOTAL	35	41

In FY19-20, OLSE approved 3 MCO waivers and 5 HCAO waivers. All of these waivers were granted for sole source contracts that fell under the waiver provisions of San Francisco Administrative Code Subsections 12P.7(a)(i)(B) and 12Q.6(a)(i).

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.





Office of Labor Standards Enforcement

City Hall, Room 430
1. Dr Carlton B. Goodlett Place
San Francisco, CA 94102
415-554-6235
<https://sfgov.org/olse>

