



*San Francisco COVID-Related Employment Protections Ordinance*  
*Implementation Guidance*

**March 19, 2021**

The COVID-Related Employment Protections Ordinance (“Ordinance”) protects employees and job applicants from adverse action for specified reasons related to COVID-19. The San Francisco Office of Labor Standards Enforcement administers and enforces the Ordinance’s protections.

Note: The links provided below direct to San Francisco Department of Public Health (DPH) guidance as of the issue date of this document. For the most current information, please go to DPH’s [COVID-19 webpage](#).

**Effective Date**

**1. Q: What are the effective dates of the Ordinance?**

A: The COVID-Related Employment Protections Ordinance took effect on March 7, 2021. The ordinance is in effect for two years, until March 6, 2023.

**Scope of Ordinance**

**2. Q: Which employers are covered by the Ordinance?**

A: Any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs, contracts with, or hires an Employee. The City and County of San Francisco is defined as an employer.

**3. Q: Does the Ordinance cover private sector employers at the San Francisco International Airport (SFO)?**

A: No. The Ordinance covers work performed within the geographic boundaries of San Francisco, which does not include SFO.

**4. Q: Does the Ordinance cover private sector employers at the Presidio?**

A: No. The Ordinance does not cover private businesses located in “federal enclaves” such as the Presidio, Fort Mason, and the Golden Gate National Recreation Area (GGNRA).

**5. Q: Does the Ordinance cover undocumented employees and job applicants?**

A: Yes. All employees and job applicants in San Francisco – whether or not they are legally authorized to work in the United States – are covered by the Ordinance. OLSE will process claims without regard to the person’s immigration status, and will never ask questions about immigration status.

**Employee Protections**

**6. Q: Who is covered by the Ordinance’s employee protections?**

A: Employees, as defined under California Labor Code Section 2750.3, including part-time and temporary employees, working in San Francisco are covered by the Ordinance.

**7. Q: What protections are afforded to employees under the Ordinance?**

A: Employers may not take any adverse action (e.g., fire, threaten to fire, discipline) or in any manner discriminate against an employee who is absent from or unable to work, or who requests time off work, because the employee tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure, until such time as the employee may return to work consistent with the Local Health Officer’s [return-to-work guidance](#).

Additionally, Employers may not take any adverse action against an employee because the employee tested positive for or is perceived to have been infected with COVID-19; provided, however, that an employer should not allow an employee who is experiencing any sign or symptom of COVID-19, or who has confirmed or suspected COVID-19 infection, to return to work on-site until the employee may do so consistent with the Local Health Officer’s [return-to-work guidance](#).

These employee protections exist whether or not the employee is eligible to take paid or unpaid leave under any employer benefit program or any other local, state, or federal protection.

**8. Q: What qualifies as COVID-19 “exposure” under the Ordinance?**

A: Consistent with the definition of “close contact” under Local Health Officer’s [quarantine directive](#), “exposure” is when an employee had any of the following types of contact with

a person with COVID-19 within 48 hours before the person with COVID-19's symptoms began (or the date of the person with COVID-19's positive test if they had no symptoms):

- i. Lived in or stayed at the same residence as the person with COVID-19; OR
- ii. Stayed within 6 feet of the person with COVID-19 for 15 minutes or more during a 24-hour period, even if that 15 minutes occurred from the combination of several shorter interactions throughout the day; OR
- iii. Was an intimate sexual partner of the person with COVID-19; OR
- iv. Had direct contact for any amount of time with the body fluids and/or secretions of the person with COVID-19 (e.g., was coughed or sneezed on, shared utensils with, or was provided care by or provided care for them without wearing a mask, gown, and gloves).

**9. Q: Does the Ordinance protect employees who are absent from work to care for a family member?**

A: No. The Ordinance does not afford protections to employees who are absent from or unable to work, or who request time off work, to care for a family member affected by COVID-19. Note, however, that if the employee is unable to work, or requests time off work, because the employee must quarantine due to COVID-19 exposure from the family member, the Ordinance protects the employee whether or not the employee is caring for the family member.

Additionally, note that a number of federal, state, and local laws, including the San Francisco Paid Sick Leave and Public Health Emergency Leave ordinances, do provide anti-retaliation protections to employees that take leave under those laws to care for family members.

**10. Q: How does the Ordinance affect employers' absence control policies?**

A: Employers may not count an employee's absence from or inability to work because the employee tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure as an absence that may lead to or result in any adverse action (e.g., fire, discipline, suspension). These employee protections exist whether or not the employee is eligible to take paid or unpaid leave.

**11. Q: What verification may employers require?**

A: Employers may take only reasonable measures to verify that an employee's absence from or inability to work, or request for time off work, is protected under the Ordinance.

Policies or practices that require documentation for the employee's absence from work or the employee's request for time off work of three or fewer consecutive work days is presumed unreasonable.

**12. Q: What precautions should employers take when employees seek to return to work?**

A: Employers should not allow an employee who is experiencing any sign or symptom of COVID-19, or who has a confirmed or suspected COVID-19 infection, to return to work on-site until the employee may do so consistent with the Local Health Officer's [return-to-work guidance](#).

**Applicant Protections**

**13. Q: Can an employer decline to hire or contract with a job applicant because they tested positive for COVID-19, or are isolating or quarantining?**

A: No. Employers may not rescind an offer to employ or contract with an applicant, or make a decision to employ or contract with an applicant, based in whole or in part on whether the applicant tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure.

**14. Q: What should an employer do if an applicant is unable to start work because they tested positive for COVID-19, or are isolating or quarantining?**

A: If an applicant is unable to start work because they tested positive for COVID-19 or is isolating or quarantining due to COVID-19 symptoms or exposure, the employer must reasonably accommodate the applicant by scheduling a later start date, such that the applicant may begin work consistent with the Local Health Officer's [return-to-work guidance](#).

**Notice and Posting**

**15. Q: Are employers required to post a notice informing employees of their rights under the Ordinance?**

A: Yes. Employers must provide the notice to employees in a manner calculated to reach all of them by posting in a conspicuous place at the workplace, via electronic communication, and/or by posting in a conspicuous place in an employer's web-based or app-based platform. Every employer shall provide the notice in English, Spanish, Chinese, and any language spoken by at least 5% of the employees who are at the workplace or job site.

The notice to employees is available at <https://sfgov.org/olse//covid-related-employment-protections-ordinance>.

**Please email further questions to [cepo@sfgov.org](mailto:cepo@sfgov.org) or call (415) 554-6077**