

Formula Retail Employee Rights Ordinances
San Francisco Labor and Employment Code (L.E.C.) Article 41 and Article 42
Frequently Asked Questions
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I. Overview

The San Francisco Board of Supervisors enacted two ordinances on November 25, 2014 that, collectively, have been referred to as the Formula Retail Employee Rights Ordinances or the Retail Workers' Bill of Rights ("the Ordinances").

One ordinance is entitled "Predictable Scheduling and Fair Treatment for Formula Retail Employees" and is found in [Article 42 of the Labor and Employment Code \(L.E.C.\)](#). This ordinance requires formula retail establishments to provide employees with two weeks' notice of work schedules, notice of changes to work schedules, and compensation for schedule changes made on less than seven days' notice and for unused on-call shifts. This ordinance also provides part-time employees with the same starting rate of hourly pay, access to time off, and eligibility for promotions, as is provided to full-time employees in similar positions.

The other ordinance is entitled "Hours and Retention Protections for Formula Retail Employees" and is found in [Article 41 of the Labor and Employment Code \(L.E.C.\)](#). This ordinance requires formula retail establishments to offer additional hours of work, when available, to current part-time employees. The ordinance also requires successor employers to retain employees for 90 days upon a change in control of the business.

On July 15, 2015, the Board of Supervisors amended the Ordinances. This FAQ has been updated to reflect those amendments. Additional amendments may be proposed. OLSE will update this FAQ as the legislative process continues. See the [Formula Retail Employee Rights web page](#) for more information.

II. Operative Date – L.E.C. Sec. [42.17](#) and Sec. [41.18](#)

1. Q: When must Employers begin complying with the Ordinances?

A: July 3, 2015.

III. Covered Employers – L.E.C. Sec. [42.17](#) and Sec. [41.18](#)

1. Q: Which businesses are covered by the Ordinances?

A: The Ordinances apply to "Employers,"¹ which the Ordinances generally define as any Person that owns or operates a Formula Retail Establishment with 20 or more Employees

¹ Terms that are defined in the Ordinances are capitalized in these FAQs. For definitions, see Labor and Employment Code (L.E.C.) Sections [41.2](#) and [42.3](#).

in the City. Under the Ordinances, a Formula Retail Establishment is a business located in San Francisco that falls under the [Planning Code’s definition of “Formula Retail Use,”](#) except that the business must have at least 40 retail sales establishments worldwide. In addition, many provisions of the Ordinances apply to Property Service Contractors. [See Section XII](#) for more information.

The term “[Formula Retail Use](#)“ may apply to the following types of retail sales or service establishments:

Amusement Game Arcade	Sales and Service, Nonretail
Bar	Sales and Service, Other Retail
Drive-up Facility	Sales and Service, Retail
Eating and Drinking Use	Service, Financial
Limited-Restaurant	Service, Fringe Financial
Liquor Store	Service, Limited Financial
Massage Establishment	Service, Personal
Movie Theater	Take-out Food
Restaurant	Tobacco Paraphernalia Establishment

To satisfy the definition of Formula Retail Use, the business must maintain at least two of the following features:

- a standardized array of merchandise;
- a standardized facade;
- a standardized decor and color scheme;
- uniform apparel;
- standardized signage;
- a trademark or servicemark.

For more information about what qualifies as a Formula Retail Use, please visit:

- the Planning Department [web page on Formula Retail Use](#).
- the Planning Department’s [Affidavit for Formula Retail Uses](#) (PDF).

2. Q: Which locations are counted when determining whether a business meets the 40-location threshold in the definition of Formula Retail Establishment?

A: All locations, even those located outside of San Francisco, that maintain at least two of the standardized features or branding described in [Planning Code Section 303.1](#) count toward the 40-location threshold.

3. Q: Does a business’s corporate headquarters count toward the 40-location threshold?

A: Corporate headquarters count toward the 40-location threshold only if the headquarters maintain at least two of the standardized features or branding described in [Planning Code Section 303.1](#).

4. Q: Which Employees should be counted to determine whether an Employer meets the threshold of 20 employees in San Francisco?

A: An Employer must count the following individuals to determine whether it meets the 20-employee threshold:

- each person who satisfies the definition of “Employee” provided in the Ordinances. See Section III of these FAQs for an explanation of how the Ordinances define “Employee”; and
- each person working in other Formula Retail Establishments in the City that are owned or operated under the same trade name by the same Employer.

Note that Employers must count individual Employees, not full-time equivalents (FTEs). For example, if a Formula Retail Establishment that has 200 locations worldwide and 21 Part-time Employees in San Francisco who are all covered by California overtime protections and who all work 8 hours per week, the Employer would be covered by the Ordinances.

Example 1. Company A owns two McDonald’s franchises in San Francisco. One location employs five people and the other location employs 15 people. Company A meets the 20-employee threshold under the Ordinances.

Example 2. Company B owns a McDonald’s franchise in San Francisco that employs 10 people. Company B also owns a Burger King franchise in San Francisco that employs 10 people. Company B does not meet the 20-employee threshold under the Ordinances.

Example 3. Company C owns two McDonald’s franchises, one in San Francisco and one outside of San Francisco. The location in San Francisco employs five people, and the location outside of San Francisco employs 15 people. Company C does not meet the 20-employee threshold.

Example 4. Company D owns one McDonald’s franchise in San Francisco that employs 10 people, and Company E owns one McDonald’s franchise in San Francisco that employs 10 people. Neither Company D nor Company E meets the 20-employee threshold.

Example 5. John Doe is the sole shareholder of two companies – Company F and Company G, each of which owns a McDonald’s franchise in San Francisco that employs 10 people. Both Company F and Company G meet the 20-employee threshold.

5. Q: Do executive, administrative and professional employees who are exempted from overtime requirements and minimum wage coverage in the California IWC Wage Orders count toward the 20-employee threshold under the Ordinances?

A: No. See Section IV on covered employees below. Only employees covered by the relevant state law are included in the count.

6. Q: Do the Ordinances apply to franchisees of Formula Retail Establishments?

A: Yes, if the franchisee satisfies the definition of Employer.

Example 1. Company A owns two Taco Bell franchises in San Francisco. At each of its two stores, Company A employs 10 people, all of whom satisfy the definition of Employee under the Ordinances. Company A satisfies the definition of an Employer under the Ordinances.

7. Q: Does a bank qualify as a Formula Retail Establishment under the Ordinances?

A: A Bank is included in the Planning Department’s definition of Formula Retail Use, and may therefore be covered by the Ordinances as long as it satisfies the requirements set forth in FAQ No. 2.

IV. Covered Employees – L.E.C. Sec. [42.17](#) and Sec. [41.18](#)

1. Q: Under what circumstances does an individual qualify as an Employee under the Ordinances?

A: An individual counts as an Employee if:

- in a particular week, the individual performs at least two hours of work for an Employer within the geographic boundaries of the City; and
- the Employee Qualifies as an employee entitled to payment of a minimum wage under the California minimum wage law.

An individual also qualifies as an Employee under the Ordinances if the individual, in a particular week, is scheduled for an On-Call Shift for at least two hours for an Employer within the geographic boundaries of the City, regardless whether the individual is required to report to work for such shift.

Example 1. An individual spends two hours per week in San Francisco working in the store of a business that satisfies the definition of Employer under the Ordinances. That individual also spends 30 hours per week working outside of San Francisco. That individual satisfies the definition of an Employee under the Ordinances.

2. Q: Do the Ordinances apply to executive, administrative and professional employees who are exempted from overtime requirements and minimum wage coverage in the California IWC Wage Orders?

A: No. See the [DIR website](#) for more information about these exemptions.

3. Q: Do the Ordinances apply to temporary or seasonal employees?

A: The Ordinances apply to temporary and seasonal employees who work at a retail location so long as the employee satisfies the definition of Employee in the Ordinances.

4. Q: Are employees at the San Francisco International Airport covered by the Ordinances?

A: No. The Ordinances only cover Employees who work within the geographic boundaries of San Francisco, which does not include the San Francisco International Airport.

V. Offering Additional Work to Part-time Employees – L.E.C. Sec. [41.3](#)

1. Q: What obligations does Article 41 impose on Employers before they may hire new employees, contractors, or a temporary services or staffing agency to perform work?

A: Article 41 states that before hiring new employees, using contractors, or using a temporary services or staffing agency to perform work, the Employer must first offer the additional work to existing Part-Time Employees if: (1) the Part-time Employee(s) are qualified to do the additional work, as reasonably determined by the Employer; and (2) the additional work is the same or similar to work the Employee(s) have performed for the Formula Retail Establishment.

2. Q: If a Full-time or Part-time Employee separates from the Employer, is the Employer required to offer those hours to current Part-time Employees?

A: Yes. Under Article 41, an Employee is Part-time if the Employee works less than 35 hours per week.

Example 1. Company A is a department store that satisfies the definition of Employer. Additional hours of work have become available to work as a salesperson in the hardware

section of the store. A manager at Company A is considering whether to offer those hours to Part-time Employee Smith, who has only worked as a salesperson in the electronics section of the store. The manager decides not to offer the additional hours to Smith because working as a salesperson in the hardware section requires specialized knowledge which Smith lacks. The manager has made a reasonable determination that Smith was not qualified to do the additional work.

Example 2. Company B is a department store that satisfies the definition of Employer. Additional hours of work have become available to work as a cashier in the hardware section of the store. Working as a cashier in the hardware section requires no specialized knowledge about hardware. Part-time Employee Jones has only worked as a cashier in the electronics section of the store. Rather than offer the additional hours to Jones, Company B hired a new employee. Company B has likely violated Article 41 because Jones was qualified to work as a cashier in the hardware section and that work is similar to her work as a cashier in the electronics section. The fact that Company B may have to provide Jones with a minimal amount of additional training to work as a cashier in the hardware section is immaterial.

Example 3. Company C is a department store that satisfies the definition of Employer. Twenty hours of additional work have become available. Part-time Employees Jones and Smith are each scheduled to work 10 hours, and they are both qualified to perform the additional work. Company C's options with regard to those hours include but are not limited to:

- Company C may offer all of the hours to Jones, and none to Smith, or vice versa;
- Company C may offer some hours to Jones and some to Smith in whatever order and proportion the Employer chooses; and
- Company C may offer none of the hours to Jones or Smith and instead offer some or all of the hours to a Full-time Employee, even if it means paying the Full-time Employee overtime.

3. Q: Under Article 41, if an Employer has multiple locations in San Francisco, must the Employer offer additional hours that become available at one location to Part-time Employees working at other locations?

A: No.

Example 1. Company A is an Employer, and owns three Taco Chain franchises in San Francisco. Additional hours become available at one of those franchises, Franchise #1. Company A must offer those additional hours only to Part-time Employees working only at Franchise #1, so long as those Part-time Employees are qualified to do the additional

work, and the additional work is the same or similar to work the Employee(s) have performed for Taco Chain.

- 4. Q: Under Article 41, if all Employees are scheduled to work 35 hours this week, but some qualified Employees are scheduled to work less than 35 hours next week, can the Employer hire a new employee to work next week?**

A: No, all qualified Part-time Employees must be offered 35 hours of work in each week before an Employer can hire new employees to work during that week.

VI. Employee Retention during a Change in Control – L.E.C. Sec. [41.4 - 41.6](#)

- 1. Q: How does Article 41 define a “Change in Control”?**

A: “Change in Control” means any sale, assignment, transfer, contribution, or other disposition (including by consolidation, merger, or reorganization) of all or the majority of the assets of, or a controlling interest in, the Incumbent Employer or Formula Retail Parent or any Formula Retail Establishment under the operation or control of either such Incumbent Employer or Formula Retail Parent.

- 2. Q: Which Employees are eligible for retention protections when there is a Change in Control?**

A: Article 41 defines “Eligible Employee” to mean any Employee who has been employed by the Incumbent Employer at the Formula Retail Establishment subject to a Change in Control for at least 90 days prior to the date that the Transfer Document is fully executed. “Eligible Employee” does not include a managerial, supervisory, or confidential employee.

- 3. Q: When there is a Change in Control of a Formula Retail Establishment, what are the responsibilities of the Incumbent Employer (the Employer that owns, controls, and/or operates the Formula Retail Establishment prior to the Change in Control) under Article 41?**

A: The Incumbent Employer must:

- at the time the Transfer Document is fully executed, provide the Successor Employer with a “retention list” that includes the name, contact information, date of hire, rate of pay, average number of hours worked per week in the prior six months, and employment occupation classification of each Eligible Employee; and
- post public notice of the Change in Control in a conspicuous place at the Formula Retail Establishment within 24 hours of the date that the Transfer Document is fully executed. The Notice must include the name of the Incumbent Employer and

its contact information, the name of the Successor Employer and its contact information, with U.S. Postal and electronic mailing addresses, and the effective date of the Change in Control.

4. Q: When there is a Change in Control, what are the responsibilities of the Successor Employer (The Employer that owns, controls, and/or operates the establishment after the Change in Control) under Article 41?

A. Article 41 creates certain requirements for Successor Employers after a Change in Control. Some of these requirements include:

- The Successor Employer must employ each Eligible Employee identified on the Retention List for 90 days under the same terms of employment with respect to job classification, compensation, and number of work hours that governed the Eligible Employee and Incumbent Employer;
- The Successor Employer shall make a written offer of employment to each Eligible Employee identified on the Retention List; and
- The Successor Employer, like all Employers, must post in a conspicuous place at any workplace or job site where any Employees works a notice prepared by OLSE informing Employees of their rights under Article 41. The notice must be in English, Spanish, Chinese, Tagalog and any other language spoken by at least five percent of the Employees at the workplace or job site.

5. Q: During the 90-day transition employment period after a Change in Control, may the Successor Employer discharge an Eligible Employee without cause?

A: No.

6. Q: During the 90-day transition employment period after a Change in Control, may the Successor Employer discharge an Eligible Employee for cause?

A: Yes.

7. Q: During the 90-day transition employment period after a Change in Control, may the Successor Employer discharge an Eligible Employee if the Successor Employer determines that it requires fewer Eligible Employees than were employed by the Incumbent Employer?

A: Yes, but the Successor Employer must retain Eligible Employees by seniority based on the date of hire by the Incumbent Employer or, if there is an applicable collective bargaining agreement, pursuant to that agreement. If a Successor Employer discharges an Eligible Employee during the 90-day transition employment period after a Change in Control, the Successor Employer may not employ any individual other than an Eligible Employee in the Eligible Employee's job classification for the Formula Retail

Establishment from the date that the Transfer Document is fully executed until 90 days after the Successor Employer opens the business to the public.

8. Q: If a business that does not satisfy the definition of an Incumbent Employer is sold to a business that satisfies the definition of Employer, must the purchasing Employer adhere to the provisions of Sections 41.4 through 41.6?

A: No. Sections 41.4-41.6 apply only where an Incumbent Employer sells to a Successor Employer.

Example 1. A business with five locations worldwide and 15 employees in San Francisco is sold to a business that satisfies the definition of Employer. After the sale, the Employer is not obligated to adhere to the provisions of Sections 41.4 – Section 41.6.

VII. Scheduling – L.E.C. Sec. [42.4](#)

a. Initial Estimate of Minimum Hours – L.E.C. Subsection 42.4(a)

1. Q: Under Section 42.4, what must be included in the initial estimate of minimum hours that Employers are required to give Employees before employment begins?

A: Employers are required to provide a new Employee with a good faith estimate in writing that includes the Employee's expected minimum number of scheduled shifts per month, and the days and hours of those shifts. The estimate need not include On-Call Shifts. The estimate must be provided to new Employees prior to the start of employment. The best practice for Employers is to be as precise as possible about how many hours the Employee is likely to work and when those hours will be scheduled, but the level of specificity may vary based on the circumstances of the business and the type of work to be performed.

2. Q: Must the initial estimate of minimum hours include the estimated number of shifts?

A: No.

3. Q: Is an Employer bound by the number of hours in the initial estimate of minimum hours?

A: No.

4. Q: Does Section 42.4(a) require an Employer to provide an initial estimate of minimum hours to both Part-time and Full-time Employees?

A: Yes.

5. Q: Can the initial estimate of hours be incorporated into the Wage Theft Protection Act Notice?

A: Yes, Employers are encouraged to incorporate the initial estimate of minimum hours into the Wage Theft Protection Act Notice required by California Labor Code Section 2810.5.

b. Two Weeks' Notice of Work Schedules – L.E.C. Subsection 42.4(b)

6. Q: What are the requirements in Section 42.4 for providing Employees with their schedules in advance?

A: Employers must provide Employees with their schedules at least two weeks in advance. Employers may satisfy this requirement by doing one of the following at least every 14 days: (1) posting the work schedule in a conspicuous place at the workplace that is readily accessible and visible to all Employees, or (2) transmitting the work schedule electronically, so long as all Employees are given access to the electronic schedule at the workplace.

For new Employees, an Employer must provide the new Employee on his or her first day of work with an initial work schedule that runs through the date that the next Biweekly Schedule for existing Employees is scheduled to be posted or distributed. Thereafter, the Employer must include the new Employee in an existing Biweekly Schedule with other Employees.

7. Q: Must the work schedule include any On-Call Shifts?

A: Yes.

8. Q: May an Employer provide Employees with more than two weeks' notice of their schedules?

A: Yes.

c. Notice and Pay for Schedule Changes - L.E.C. Subsections 42.4(c) - (e)

1. Q: Are Employers required to notify Employees of changes to the Employee's schedule? Are there any exceptions to this requirement?

A: Pursuant to Subsection 42.4(b), Employers must provide notice of any change to the Employee's(') schedule(s) that has been posted or transmitted. However, this notice

requirement does not apply to any schedule changes that the Employee requests, such as Employee-requested sick leave, time off, shift trades, or additional shifts.

2. Q: If an Employer changes an Employee’s schedule, by what means must the Employer notify the Employee of that schedule change?

A: The Employer must notify the Employee by in-person conversation, telephone call, email, text message, or other electronic communication.

d. Predictability Pay and On Call Schedules – L.E.C. Subsections 42.4(c)-(e)

1. Q: When must an Employer pay its Employees “predictability pay” for changes to scheduled shifts?

A: Subject to the seven exceptions set forth in Subsection 42.4(e) and discussed in question 3 below, an Employer must pay an Employee “predictability pay” (i.e., compensation in addition to the Employee’s regular pay) for each previously scheduled shift that the Employer moves to another date or time or cancels, or each previously unscheduled shift that the Employer requires the Employee to come into work. As summarized in the below chart, the amount of predictability pay required depends on how much advance notice the Employer provides to the Employee and the length of the scheduled shift that the Employer changed.

Advance Notice	Length of Shift	Hours of Predictability Pay (at the Employee’s Regular Hourly Rate)
Less than 7 days and 24 hours or more	Any length	1 hour
Less than 24 hours	4 hours or less	2 hours
Less than 24 hours	More than 4 hours	4 hours

2. Q: What is an On-Call Shift?

A: Pursuant to Article 42, an On-Call Shift is a shift for which an Employee must, less than 24 hours in advance of the start of the shift, either contact the Employer or wait to be contacted by the Employer to learn whether the Employer requires the Employee to report to work for the shift.

3. Q: Under Section 42.4, subsections (c) and (d), Employers must provide notice to Employees of schedule changes, predictability pay for certain schedule changes, and pay for On-Call Shifts. What are the exceptions to these requirements?

A: Subsection 42.4(e) creates seven exceptions to the requirements of subsections (c) and (d). These exceptions are:

- (1) Operations cannot begin or continue due to **threats to Employees or property**, or when civil authorities recommend that work not begin or continue;
- (2) Operations cannot begin or continue because **public utilities fail** to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system;
- (3) Operations cannot begin or continue due to an **Act of God or other cause not within the Employer's control**;
- (4) Another **Employee previously scheduled to work is unable to work** due to illness, vacation, or employer-provided paid or unpaid time off (and the Employer did not receive 7 days' notice);
- (5) **Another Employee** previously scheduled to work that shift **has not reported to work** on time and/or is fired or sent home or told to stay home as a disciplinary action;
- (6) The **Employer requires the Employee to work overtime** (i.e., mandatory overtime); or
- (7) The **Employee trades shifts** with another Employee **or requests a change in shift(s)**, hours, or work schedule.

Below are some frequently asked questions regarding these exceptions.

4. Q: Pursuant to 42.4(e)(6) (Exception #6), if an Employer requires an Employee to work overtime, must the Employer pay the Employee predictability pay for the overtime hours?

A: No.

Example 1. An Employee is scheduled to work **eight** hours on Monday. When the Employee shows up to work on Monday, the Employer informs the Employee that the Employee will be required to work 10 hours on Monday. The Employer need not provide the Employee with predictability pay.

Example 2. An Employee is scheduled to work **four** hours on Monday. When the Employee shows up to work on Monday, the Employer informs the Employee that the Employee will be required to work 6 hours on Monday. In addition to the Employee's regular pay for working that shift, the Employer must provide the Employee with two hours of predictability pay at the Employee's regular hourly rate.

5. Q: What are some examples of circumstances that are covered under, or not covered under, 42.4(e)(3) (Exception #3)?

A: For this exception to apply, the Act of God or other cause not within the Employer's control must be of such a nature that it entirely prohibits the business from opening or remaining open. Examples of Acts of God include but are not limited to earthquakes,

floods, and storms. The fact that, for example, an Act of God has occurred does not automatically mean that this exception applies. Rather, this exception applies only when, as a consequence of that Act of God or other cause not within the Employer's control, the business is functionally prohibited from opening or remaining open.

Example 1. An earthquake occurs, causing a Formula Retail Establishment that is a restaurant to lose water service and electrical power. As a result, the restaurant closes for the day and sends all Employees home. The Employer is not obligated to pay the Employees predictability pay.

Example 2. A crime occurs next to a Formula Retail Establishment. The police have shut down the block, prohibited businesses from opening, and required businesses that have already opened to shut down. The Employer is not obligated to pay the Employees predictability pay.

Example 3. A rainstorm causes a substantial reduction in customers coming into the business. Because of the lack of customers, the Employer decides to send several Employees home early. The Employer must provide those Employees with predictability pay, in addition to their regular pay for the hours worked.

Example 4. The Giants win the World Series (again) and there is a parade down Market Street. An Employer located in a different part of the City anticipates that business will be slow because of the parade, and, on the day of the parade, decides to send several Employees home early. The Employer must provide those Employees with predictability pay, in addition to their regular pay for the hours worked.

Example 5. A Formula Retail Establishment is a restaurant with a menu that includes hamburgers. The Employer learns that, due to circumstances out of the Employer's control, the price of beef has skyrocketed. The Employer increases the price of hamburgers, which decreases the number of customers. With less than seven days' notice, the Employer informs several Employees that they are no longer scheduled for several shifts. The Employer must provide those Employees with predictability pay.

Example 6. A Formula Retail Establishment is a movie theater. The theater is informed that, in three days, the most anticipated blockbuster movie of the year will be opening at the theater. With less than seven days' notice, the Employer informs several Employees that they will need to come in to work as a result of the expected crowds. The Employer must provide those Employees with predictability pay, in addition to their regular pay for working that shift.

VIII. Equal Treatment for Part Time Employees – L.E.C. Section [42.5](#)

1. Q: What does Section 42.5 say regarding the equal treatment of Part-time and Full-time Employees with respect to starting hourly wage?

A: Section 42.5 states that Employers must provide Part-time Employees with the same starting hourly wage as that provided to starting Full-time Employees who hold jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions, provided that hourly pay differentials between Part-time and Full-time Employees are permissible if such differentials are based on reasons other than the Part-time status of the Employee. Examples of such reasons include but are not limited to a seniority system, merit system, system which measures earnings by quantity or quality of production, performance, responsibilities, and prior work experience.

2. Q: Under Section 42.5, must Employers provide Part-time Employees and Full-time Employees with the same access to paid and unpaid time off as that afforded to Full-time Employees for the same job classification?

A: Yes. A Part-time Employee's eligibility for Employer-provided paid or unpaid time off may be pro-rated based on the number of hours that the Part-time Employee works. This requirement regarding equal access to paid and unpaid time off does not apply to Employers that are subject to the Minimum Compensation Ordinance.

Example 1. An Employer offers Employees who work 40 hours per week 2 weeks of paid vacation per year. The Employer must offer an Employee who works 20 hours per week one week of paid vacation per year.

3. Q: What are some examples of paid and unpaid time off that are covered by Section 42.5?

A: Some examples include, but are not limited to:

- Vacation time
- Paid Time Off (PTO)
- Bereavement leave
- Jury duty leave
- Paid sick leave

4. Q: Does “Employer-provided paid or unpaid time off” within the meaning of Section 42.5 include time off that is mandated by federal or state law?

A: No.

5. Q: Under Section 42.5, must Employers provide Part-time Employees with the same eligibility for promotions as that afforded to Full-time Employees for the same job classification?

A: Yes, provided that an Employer may condition eligibility for promotion on the Employee's availability for Full-time employment and on reasons other than the Part-time status of the Employee, such as nature and amount of work experience.

6. Q: Does Section 42.5 affect an Employer's obligations to provide health insurance to its Employees?

A: No. But please note that Employers covered by the Ordinances are also covered by the San Francisco [Health Care Security Ordinance](#), which addresses health care expenditures.

IX. Notices – L.E.C. Sections [41.7](#) and [42.6](#)

1. Q: Are Employers required to post a notice informing Employees of their rights under the Ordinances?

A: Yes, Employers are required to post a notice at the workplace informing Employees of their rights in a location where they can read it easily. The notice, published in six languages, will be mailed to employers annually with the City's business registration mailing. Employers may also download the notice from OLSE's website: www.sf.gov/olse-frero.

X. Records – L.E.C. Sections [41.8](#) and [42.7](#)

1. Q: What records must Employers retain to comply with the Ordinances? How long must Employers retain those records?

A: Employers must retain the following records for no less than three years:

- Work schedules and employment and payroll records pertaining to current and former Employees;
- Copies of written offers to current and former Part-time Employees for additional work hours under Section 41.3; and
- Copies of contracts with Property Services Contractors described in Section 41.3.

In addition, Successor Employers must retain the following records for no less than three years:

- a copy of offers of employment to Eligible Employees required after a Change in Control as provided in Section 41.4; and
- the Retention List of Eligible Employees entitled to employment for the 90-day transition period

The records described above must be maintained even if an Employee ceases to perform work in San Francisco or if there is a separation of employment. Employers must allow OLSE access to such records.

XI. Retaliation – L.E.C. Sections [41.9](#) and [42.9](#)

1. Q: Are Employers prohibited from retaliating against Employees for exercising their rights under the Ordinances?

A: Yes. It is unlawful for an Employer to discharge, threaten to discharge, demote, suspend, or otherwise take adverse employment action against any person in retaliation for exercising rights protected under the Ordinances. If an Employee believes that s/he has been subjected to retaliation, the Employee can file a claim with OLSE.

XII. Property Service Contractors

1. Q: How do the Ordinances define “Property Services Contractor”?

A: The Ordinances define Property Services Contractor as any contractor or subcontractor of an Employer that provides janitorial and/or security services to an Employer at a Formula Retail Establishment in San Francisco.

2. Q: Must Property Services Contractors comply with the Ordinances?

A: Property Services Contractors are required to comply with many provisions of the Ordinances. Specifically, for work performed in San Francisco at a Formula Retail Establishment covered by the Ordinances under a contract with an Employer, Property Services Contractors must comply with the requirements of the following Sections:

- [41.3](#): Offering Additional Work to Part-time Employees.
- [42.4](#): Advance Notice of Work Schedules and Changes in Work Schedules
- [42.5](#): Equal Treatment for Part-time Employees

Sections 41.7, 41.8, 41.9, 41.10, 41.11, and 41.12 of Article 41 apply to a Property Services Contractor as if it is an Employer for purposes of notice, record retention, compliance, investigation, and enforcement of the requirements of Section 41.3.

Sections 42.6, 42.7, 42.9, 42.10, and 42.11 of Article 42 apply to a Property Services Contractor as if it is an Employer for purposes of notice, record retention, compliance, investigation, and enforcement of the requirements of Sections 42.4 and 42.5.

3. Q: What requirements and responsibilities do the Ordinances impose on Employers with respect to Property Services Contractors?

A: Employers must include, in contracts with Property Services Contractors executed on or after July 3, 2015 and as to work performed in San Francisco at a Formula Retail Establishment covered by the Ordinances, a provision requiring the Property Services Contractor to comply with the Ordinances. Employers must also provide Property Services Contractors a copy of the Ordinances.

A Property Services Contractor, and an Employer that has a contract with the Property Services Contractor shall be jointly and severally liable for all amounts due pursuant to a Determination of Violation finding a violation by the Property Services Contractor of Article 41, including for violations of the requirement to offer additional work to existing Part-time Employees.