

Labor Project for Working Families

BARGAINING FOR PAID FAMILY LEAVE BENEFITS

California unions can bargain to both minimize the limitations of and enhance the Paid Family Leave law through contract language!

WHAT DOES THE LAW PROVIDE?

- Paid family leave provides for 6 weeks of partially paid leave each year to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.
- Administered through the State Disability Insurance (SDI) system, workers who take leave will receive up to 55% of their wages, up to a maximum of \$917 per week (2008 rate).

BARGAINING ON THE LIMITATIONS

The following limitations of California's Paid Family Leave law can be modified through bargaining:

1) Only Workers Who Pay into SDI are Eligible.

Many public employees are not part of the SDI system. Public employees may bargain to participate and thus qualify for paid family leave.

Contract Language Example:

[Upon notice from the Union that units desire to be enrolled in the SDI Program], the Dept of Human Resources shall immediately take any and all necessary action to enroll such representation units and all employees into the Program.

2) The Paid Family Leave Insurance Program is 100% employee-funded.

Unions may bargain for language that places financial responsibility for all employee SDI contributions on the employer.

Contract Language Example:

The District will pay for employee coverage under the State Disability Insurance program.

3) The Paid Family Leave law does not expressly provide the right to reinstatement or job protection. Workers may also be covered under other laws such as FMLA/CFRA.

Unions have negotiated job protection for employees utilizing a variety of leave categories.

Contract Language Example:

Upon the conclusion of *[the Paid Family Leave Benefit]*, the Publisher shall return the employees to their former positions, or in the absence of same, to similar positions. No position shall be abolished while an employee is on *[Paid Family Leave.]*

4) There is a one-week waiting period before workers can apply for paid leave.

Unions can bargain for the employee's right to use accrued sick time, vacation or paid leave during the one-week waiting period.

Contract Language Example:

An employee may request the use of accrued annual and personal leave credits to substitute for unpaid medical, parental, family care leaves, *[and the one-week waiting period for the Paid Family Leave Benefit]*.

5) Employers may require a worker to use up to two weeks of vacation time before being eligible for paid family leave benefits.

Unions may bargain for the employee's right to choose whether to use vacation or other leave time before utilizing paid family leave benefits.

Contract Language Example:

The employer may not require employees to use their vacation/ excused absence time *[prior to receiving the Paid Family Leave Benefits]*

[Over...]

BARGAINING TO ENHANCE THE LAW

The law provides a framework on which unions can build:

1) Ensure employer compliance with the law

Including the law in bargaining contracts makes all violations of the law grievable. *It is important to state that the provision is “without prejudice to the individual’s right to go to Court” to protect the right for further action, if necessary.*

Contract Language Example:

A violation of the *[Paid Family Leave Benefit]* will be subject to the Grievance and Arbitration provisions of the CBA *[This provision is without prejudice to the individual’s right to go to Court.]*

2) Integrate other benefits (such as Vacation, Sick Time etc.) with SDI

Unions have negotiated the option to use accrued sick and/or vacation time to supplement unpaid or partially paid leave, including paid family leave benefits.

Contract Language Example:

[When an employee utilizes paid family leave], the employer shall coordinate benefits with SDI payments to provide the employee with six weeks fully paid leave.

3) Provide for full salary during leave

Unions can bargain for the employer to pay the difference between the paid family leave benefit (approx. 55% of salary) and the employee’s normal wage.

Contract Language Example:

An employee entitled to SDI shall receive in addition a portion of his/her accumulated sick leave with pay to equal, but not exceed, the regular biweekly “take home” earnings of the employee.

4) Continuation of benefits

Unions have negotiated for the continuation of some or all benefits during a leave of absence.

Contract Language Example:

The Employer will maintain group health insurance coverage [and other benefit coverage i.e. disability, life, etc.] for a worker on *[Paid Family Leave]* on the same terms as if the worker continued to work for a period up to *[6]* weeks, after which time the worker will be 100% responsible.

5) Maintaining seniority

Many unions have negotiated seniority protection for workers on any type of leave.

Contract Language Example:

The *[Paid Family Leave Benefits]* clause shall be amended to provide that the period in which the employee is on *[family leave]* shall be included in the computation of length of service. Employees on *[Paid Family Leave]* shall return to work with no loss of seniority.

The sample language found on this fact sheet was adapted from contract language provided by the following unions: HERE Local 2, ATU Local 192, Washington-Baltimore Newspaper Guild Local 35, UAW, HWU Local 767 & USWA Local 3.

The Labor Project for Working Families has more examples of contract language on this and other work family issues.

For more information please call (510) 643-7088 or email info@working-families.org.

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