

April 13, 2020

The Honorable Hillary Ronen
Chair
San Francisco Rules Committee
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

File No. 200355: Emergency Ordinance – Public Health Emergency Leave

Dear Chair Ronen:

We appreciate all the support the City and County of San Francisco is providing to the health care community and the people of San Francisco during this unprecedented community health crisis, including taking steps to protect workers.

Kaiser Permanente Is on the Frontlines of this Crisis

While most Californians are prudently staying safe at home, the people of Kaiser Permanente are on the frontline of the battle against the COVID-19 pandemic. Kaiser Permanente is intensely focused on providing care and preparing for the anticipated surge, while keeping our health care workers and support staff safe. We absolutely agree that the shelter in place order is critical to beating this pandemic, and that sick leave is an important tool for protecting workers and patients. We have generous sick leave policies in place for our employees, including existing paid time off policies. And, we have created additional benefits to both union and non-union employees, to include up to an additional 80 hours of COVID-related paid leave time, as well as a childcare stipend. If a hospital or clinic employee is ill, we want them to stay home and recuperate.

The City Ordinance, Though Well-Intentioned, Risks Detrimental Adverse Consequences

We are concerned about the proposed amendment to the Ordinance mandating emergency leave on crucial health care services. The City's original emergency leave Ordinance prudently included an exemption for health care workers, consistent with the Federal regulations and also other larger jurisdictions, such as Los Angeles. Now, however, the proposed amendment would take away that exemption. Although the amendment has the best intentions, it would have unintended consequences of adding to piecemeal local rules with no actual exemptions and diverting focus from the coming possible surge and onto implementation and administrative compliance. Any gain to Kaiser employees is minor given enterprise-wide COVID leave and other benefits Kaiser is already rolling out. Finally, failure to exempt hospitals and health systems encourages absenteeism when healthcare workers are most needed. We do not believe that this is the City's goal.

The Correct Solution

1. We respectfully submit that the City should keep its original exemption for health care workers, in line with the Federal regulations and other jurisdictions like Los Angeles.

Such an exemption is the best way to keep the focus of health care on health care at this crucial time.

If nothing else, create exemptions that make administration easier.

2. The City should recognize that unionized work forces are already working with employers to create nuanced solutions. The current collective bargaining agreement (“CBA”) exemption in the ordinance in effect offers no waiver at all, as it requires an explicit waiver to be added to CBAs. It would be an enormous burden to reopen collective bargaining agreements at this time, especially for employers like Kaiser who have many different unions and CBAs. Instead, we ask you – at least for health care employers -- to modify the waiver so that it applies to all employees covered by a CBA, with no explicit waiver requirement. Employees represented by unions already tend to have more generous benefits and are the least likely to need the protections of the Ordinance. Eliminating city-imposed conditions for a waiver also would mitigate inadvertently running afoul of the National Labor Relations Act.
3. Consider exempting employees exempt from overtime and other Labor Code provisions. Such employees are already likely to receive generous time-off packages.
4. Limit Emergency Leave for Health care workers to ordered COVID-quarantines or per the CDC guidelines.

We are ready to discuss this Ordinance with your office and answer any questions you might have. Our Community and Government Relations Manager, Arcadi Kolchak can be reached at (415) 971-4229 or by e-mail at Arcadi.X.Kolchak@kp.org.

Thank you for your leadership and support in this historic time. We appreciate your attention to this matter.

Sincerely,



Ron Groepper
Senior Vice President and Area Manager
Greater San Francisco Service Area