This action sheet provides information on ways unions can improve on Paid Family Leave by bargaining in their contract. For more information, contact the Labor Project for Working Families.

What Does the Law Provide?
The Paid Family Leave law provides for six 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 $840 per week in 2005.

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 in the system and thus qualify for paid family leave.

   \textit{Contract Language Example:}
   \begin{quote}
   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.
   \end{quote}

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.

   \textit{Contract Language Example:}
   \begin{quote}
   The District will pay for employee coverage under the State Disability Insurance Program.
   \end{quote}

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.

   \textit{Contract Language Example:}
   \begin{quote}
   Upon the conclusion of [the Paid Family Leave Benefit], the employer 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].
   \end{quote}

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.

   \textit{Contract Language Example:}
   \begin{quote}
   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.
   \end{quote}

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.

   \textit{Contract Language Example:}
   \begin{quote}
   The employer may not require employees to use their vacation/excused absence time prior to receiving Paid Family Leave Benefits.
   \end{quote}
Bargaining to Enhance the Law

The law provides a framework upon 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.

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.

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 wages) and the employee’s normal wage.

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

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

The sample language found in 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 TNG-CWA, NG Local 39521 CWA, UAW, HWU Local 767 & USWA Local 3.

The Labor Project has more examples of contract language on this and other work/family issues. Contact us for more information.

Questions?
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This fact sheet is intended to provide accurate, general information about Paid Family Leave. Because laws and legal procedures are subject to frequent change and differing interpretations, the Paid Family Leave Collaborative cannot ensure that the information in this fact sheet is current, nor be responsible for any use to which it is put. People who have legal questions should consult an attorney or the appropriate administrative agency. Do not rely on this information without consulting an attorney or the appropriate agency about your rights.

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