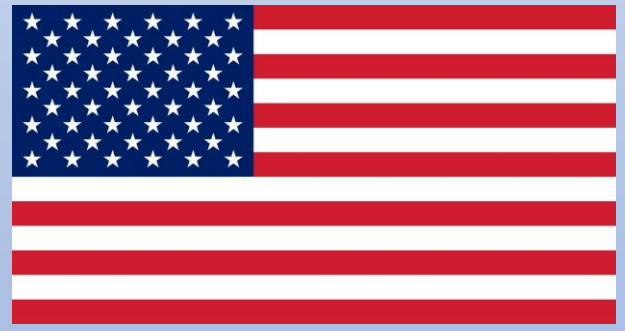


Military Leave Pay Protection Act



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Office of Labor Standards Enforcement

Agenda

1. Overview
2. Definitions: Covered Employer; Covered Employee
3. Supplemental Compensation and Military Pay
4. Three Calculation Examples
5. Q&A
6. Additional info and Resources

What is the Military Leave Pay Protection Act (MLPPA)?

Military reserve and National Guard personnel are often required to take military leave from their civilian jobs in order to attend training, to assist with emergencies, and to be deployed. They have been deployed to respond to the pandemic and natural disasters, to protect state and federal Capitols, and are sent overseas.

Reservists and Guards on military leave often suffer a loss in compensation because their civilian jobs pay more than their military service**. The MLPPA was designed to avoid a loss in income for members of the military.**

MLPPA became operative on **February 20, 2023**

Other related laws

Employees who are service members already have **job protection** under a federal law called

USERRA (Uniformed Servicemembers Employment & Reemployment Rights Act).

Employees who are service members already have **protections** under various California laws:

- California Family Rights Act (CFRA)
- California Military and Veterans Code (CMVC)
- Anti-Discrimination laws
- Others

OLSE cannot answer questions about federal or state law.
A slide at the end of the presentation directs you to where you can get help with those laws.

Who is a Covered Employer?

- Global count of one hundred (100) or more employees;
- Location of employer's headquarters is not relevant;
- Nonprofit vs for-profit is not relevant;
- Government entities are not covered employers (State of CA, UCSF, CCSF, school districts).

What Must a Covered Employer Do?

- Notify employees of their right to supplemental compensation promptly after being told the employee will require time off work.
- Put MLPPA info in Employee Handbook; OLSE poster regarding MLPPA available on OLSE's website.
- Calculate and pay Supplemental Compensation on time and in full

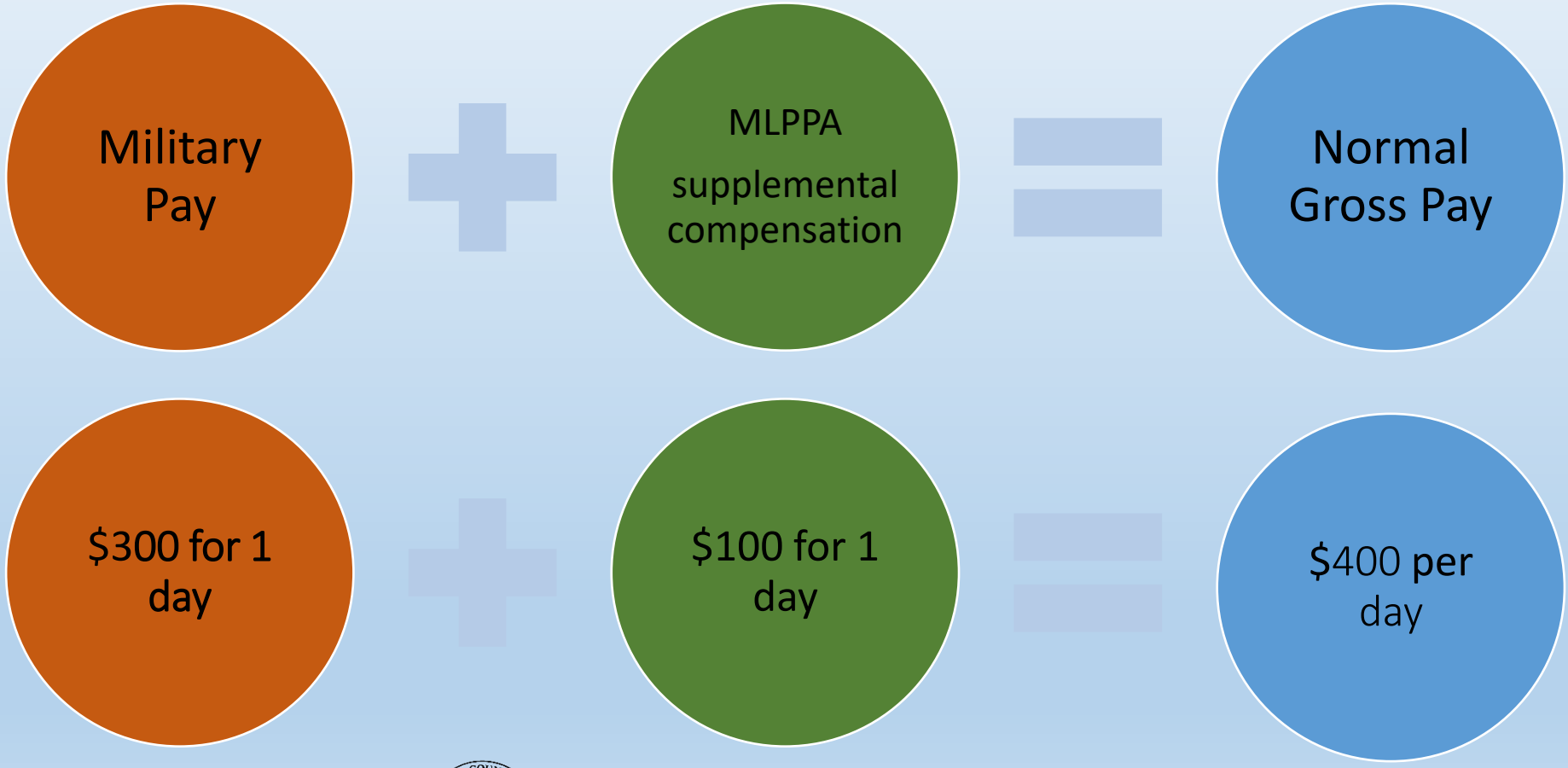
Remember, service members already have job protection under federal and state law

Covered Employees

- **Work for a Covered Employer within the geographic boundaries of San Francisco**
  - ✓No length of tenure requirements
  - ✓Includes part-time and temporary employees
  - ✓Note: SFO airport is not within S.F.
- **Are members of the reserve corps of the U.S. Armed Forces, National Guard, or other uniformed service organization of the U.S.**



Supplemental Compensation



Supplemental Compensation

- Employer must pay the Employee the difference between:
  - the Employee's gross military pay; and
  - *the amount of gross pay the Employee would have received* from the Employer had the Employee worked his/her regular work schedule.
- The Employee should not receive more compensation *from the employer* than they would have if they hadn't gone on military leave.
- Military Leave can be taken in daily increments for one or more days at a time. Employers must supplement pay for up to 30 days in a calendar year, even if the employee's military leave is longer than that.
- Employer does *not* need to pay for days that Employee would have been working *outside of San Francisco*, or for days that Employee would *not have been scheduled to work.*

Lookback Period

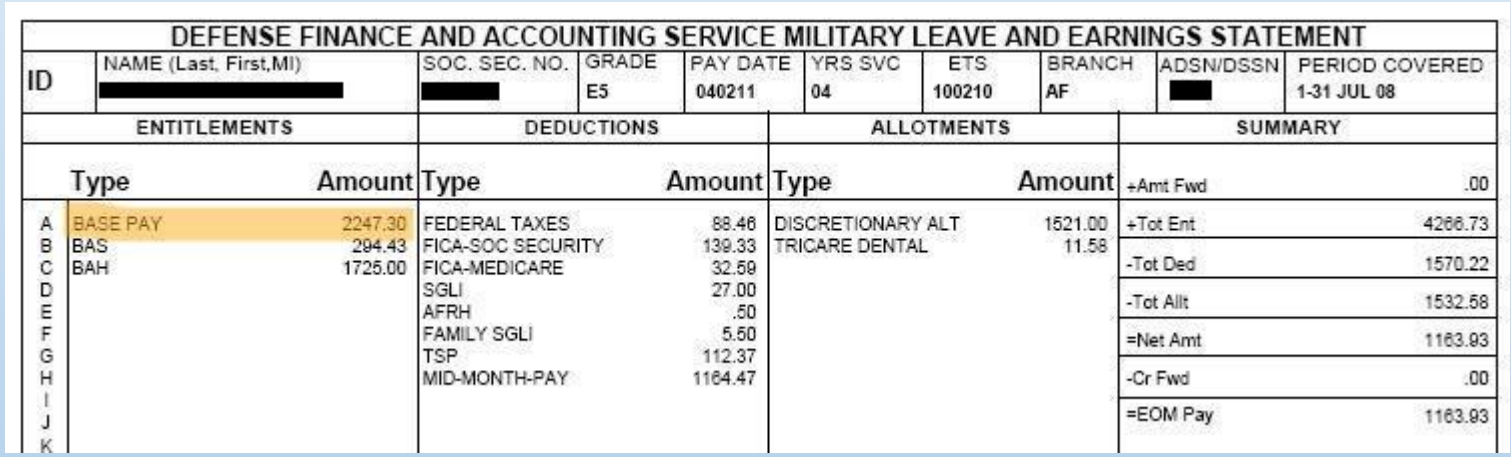
- If employee's earnings fluctuate, "normal gross pay" should be determined by looking at the 3 monthly pay periods, 6 bi-weekly/semi-monthly pay periods, or 12 weekly pay periods ("Lookback Period") immediately preceding the relevant period of military leave.
- If employee's schedule fluctuates, their "regular work schedule" should also be calculated using the Lookback Period.
- The Lookback Period should **not** include any time periods in which the employee was on leave.
  - If employee begins leave during a pay period, use the prior pay periods for the Lookback.

Military Pay

- How do I know how much pay my employee is getting from the Military?
  - Employer may request that the Employee provide his/her written military orders showing pay, or a wage statement (Leave & Earnings Statement or “LES”) verifying the pay.
  - Employer can also use the military’s rate chart to anticipate the military gross pay, based on rank.
  - If employer cannot confirm pay in advance, it can estimate and make adjustments in the following pay period(s).

Military Pay: Leave & Earnings Statement

- LES will show the base pay rate and dates the pay covers.
- Calculate using the gross military pay and **not** any "allowances," such as combat, housing, or hazardous duty allowance.



DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT

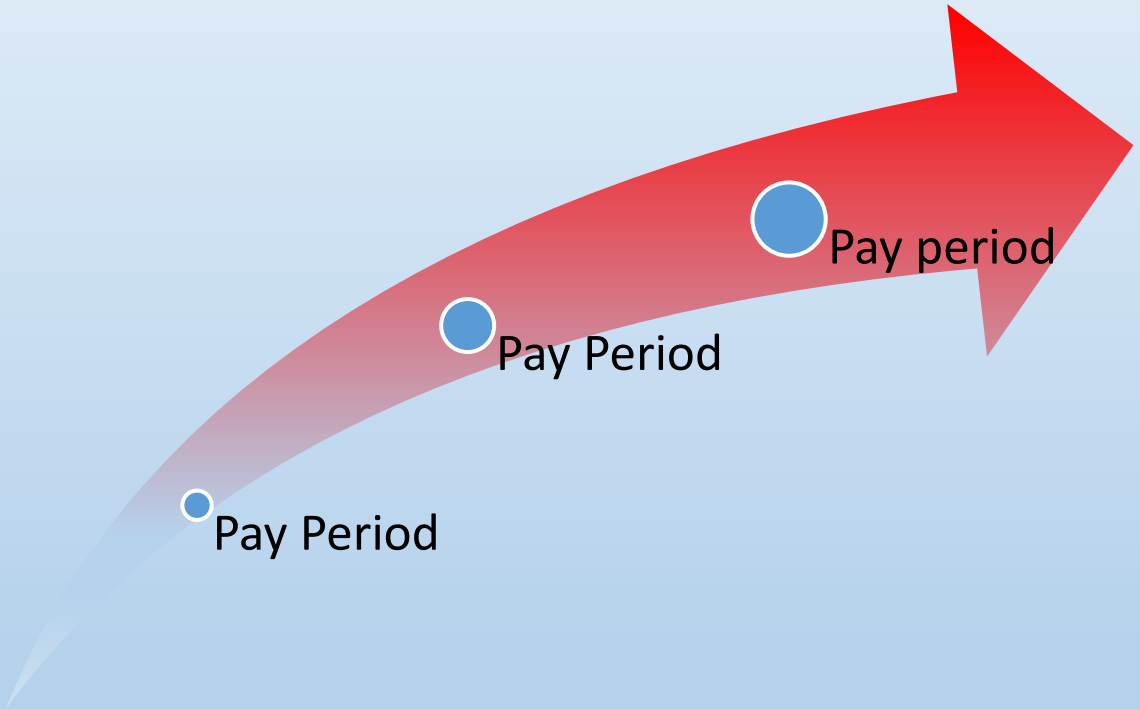
ID	NAME (Last, First,MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED
	[redacted]	[redacted]	E5	040211	04	100210	AF	[redacted]	1-31 JUL 08

	ENTITLEMENTS Type	ENTITLEMENTS Amount	DEDUCTIONS Type	DEDUCTIONS Amount	ALLOTMENTS Type	ALLOTMENTS Amount
A	BASE PAY	2247.30	FEDERAL TAXES	88.46	DISCRETIONARY ALT	1521.00
B	BAS	294.43	FICA-SOC SECURITY	139.33	TRICARE DENTAL	11.58
C	BAH	1725.00	FICA-MEDICARE	32.59		
D			SGLI	27.00		
E			AFRH	.50		
F			FAMILY SGLI	5.50		
G			TSP	112.37		
H			MID-MONTH-PAY	1164.47		
I						
J						
K						

SUMMARY	
+Amt Fwd	.00
+Tot Ent	4266.73
-Tot Ded	1570.22
-Tot Allt	1532.58
=Net Amt	1163.93
-Cr Fwd	.00
=EOM Pay	1163.93

- In the above example, you'd use $2,247.30. (BAS = basic allowance for subsistence; BAH = basic allowance for housing)

Timing of Supplemental Compensation



Employers should make a good faith effort to provide the Supplemental Compensation no later than the payday for the payroll period when the Employee's military leave began.

Example 1: Gina: Fluctuating Earnings

- Gina works Monday – Friday, 8 hours per day.
- Gina is a commission-based employee, so her earnings fluctuate. Gina is paid biweekly.
- Gina is a reservist who is told to report for training from July 11 – July 31 (21 calendar days).



Gina: Calculating Daily Wage

- Because Gina's earnings fluctuate, Employer will need to use the Lookback Period to calculate her average earnings.
- Since she's paid biweekly, Employer will look at the 6 pay periods **prior to July 11th**. Do not use pay periods including July 11th.
- Gina earned **$68,975.33** in the 6 pay periods prior to leave.
  - Divide this by 6 pay periods = **$11,495.89** per pay period
  - Divide this by 10 workdays per pay period (M – F only) = **Gina's daily rate is $1,149.59.**

Gina: Military Pay

- Gina's LES shows she is being paid **$1,891.20** for 21 days of military service
  - $1,891.20 divided by 21 = **$90.06 per day**
- Gina's daily wage rate (previous slide) is **$1,149.59**
- Subtract her military pay of $90.06
- Employer owes supplemental compensation of $**1,059.53 per day.**

Supplemental Compensation: Gina



How much supplemental compensation is Gina owed?
How many days does she need to be paid for?

GINA'S LEAVE

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
MP = military pay	**SC = supplemental comp**				7/10 Workday--normal earnings	7/11 **MP: $90.06** **SC: $0**
7/12 **MP: $90.06** **SC: $0**	7/13 **MP: $90.06** **SC: $1,059.53**	7/14 **MP: $90.06** **SC: $1,059.53**	7/15 **MP: $90.06** **SC: $1,059.53**	7/16 **MP: $90.06** **SC: $1,059.53**	7/17 **MP: $90.06** **SC: $1,059.53**	7/18 **MP: $90.06** **SC: $0**
7/19 **MP: $90.06** **SC: $0**	7/20 **MP: $90.06** **SC: $1,059.53**	7/21 **MP: $90.06** **SC: $1,059.53**	7/22 **MP: $90.06** **SC: $1,059.53**	7/23 **MP: $90.06** **SC: $1,059.53**	7/24 **MP: $90.06** **SC: $1,059.53**	7/25 **MP: $90.06** **SC: $0**
7/26 **MP: $90.06** **SC: $0**	7/27 **MP: $90.06** **SC: $1,059.53**	7/28 **MP: $90.06** **SC: $1,059.53**	7/29 **MP: $90.06** **SC: $1,059.53**	7/30 **MP: $90.06** **SC: $1,059.53**	7/31 **MP: $90.06** **SC: $1,059.53**	**15 days of *military leave* used, in 21 *calendar* days of service.**

Employer pays Gina a total of **$15,892.95** in supplemental compensation.

Gina: things to note

- Gina is not on leave on the days she's not normally scheduled to work (weekends). Employer does not need to supplement her pay on weekends.
- Since she's not on leave on weekends, those days do not count against her 30 annual days per year.
- After this leave, Gina still has 15 more days in the calendar year for which employer may need to supplement her pay, if she's called in for duty or training again.

Example 2: Miguel: Fluctuating Schedule

- Miguel is an ICU nurse with a fluctuating schedule and 12-hour shifts. In addition to occasional overtime, he can sometimes earn night shift differentials, weekend differentials, holiday pay, etc. Miguel is paid biweekly.
- Miguel is in the National Guard and is told to report to duty for three weeks of natural disaster relief, from February 18 – March 7th.
- Miguel's assignment is on the East Coast, so he will need one day to travel to, and one day to travel from, his assignment.

Miguel: Calculating Daily Wage

- Because Miguel's schedule fluctuates, his earnings do too. Employer will need to use the Lookback Period to calculate his average earnings.
- Since he's paid biweekly, Employer will look at the 6 pay periods prior to, but not including, February 18th.
- Miguel earned **$57,503.66** in 6 pay periods and worked an average of 6 shifts in each pay period.
  - Divide this by 6 pay periods = **$9,399.15** per pay period
  - Divide this by 6 shifts per pay period = **Miguel's daily rate is $1,597.32.**

Miguel: Military Pay

- Miguel's LES shows he is being paid **$6,336.49** for 18 days of military service
  - $6,336.49 divided by 18 = **$352.03 military pay per day**
- Miguel's daily wage rate (previous slide) is **$1,597.32**
- Subtract his daily military pay of $352.03
- Employer owes supplemental compensation of $**1,245.29 per day.** Employer may also owe full daily pay of $1,597.32 if Miguel needs to take off work to travel to or from his assignment.

Supplemental Compensation: Miguel



How much supplemental compensation is Miguel owed, and for how many days?

MIGUEL'S LEAVE

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
OFF = not scheduled to work	SCHED = Scheduled to work	2/17: OFF **TRAVEL DAY** MP: $0 SC: $0	2/18: OFF MP: $352.03 SC: $0	2/19: SCHED MP: $352.03 SC: $1,245.29	2/20: SCHED MP: $352.03 SC: $1,245.29	2/21: SCHED MP: $352.03 SC: $1,245.29
2/22: SCHED MP: $352.03 SC: $1,245.29	2/23: SCHED MP: $352.03 SC: $1,245.29	2/24: SCHED MP: $352.03 SC: $1,245.29	2/25: OFF MP: $352.03 SC: $0	2/26: OFF MP: $352.03 SC: $0	2/27: OFF MP: $352.03 SC: $0	2/28: OFF MP: $352.03 SC: $0
3/1: OFF MP: $352.03 SC: $0	3/2: SCHED MP: $352.03 SC: $1,245.29	3/3: SCHED MP: $352.03 SC: $1,245.29	3/4: SCHED MP: $352.03 SC: $1,245.29	3/5: OFF MP: $352.03 SC: $0	3/6: OFF MP: $352.03 SC: $0	3/7: SCHED MP: $352.03 SC: $1,245.29
3/8: SCHED **TRAVEL DAY** MP: $0 SC: $1,597.32	3/9 Back to work	**MP = military pay**	**SC = supplemental comp**	**1 day of full pay for required travel**	**11 days of military leave used**	

Employer pays Miguel a total of **$14,050.22** in supplemental compensation.

Miguel: things to note

- Miguel is not on military leave on the days he was not scheduled to work. Employer does not need to supplement his pay on the days he wasn't scheduled to be at the hospital.
- Since he's not on leave for the entirety of his military duty, those days do not count against his 30 annual days per year. After this leave, Miguel still has 19 more days in the calendar year for which employer may need to supplement his pay, if he's called in for duty or training again.

Example 3: Lamar: Long Deployment

- Lamar works Monday thru Friday at a software company. He consistently earns $10,769.23 every pay period, with no fluctuation in pay or hours. His daily wage is **$1,076.92**.

- On October 1st, Lamar receives military orders telling him he will be deployed abroad from November 16th 2026 – March 30, 2027. His daily military pay will be **$404.25.**

- $1,076.92 - $404.25 = **$672.67 daily supplemental compensation.** Lamar has not taken any other military leave in 2026.

LAMAR'S LEAVE: November 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
11/15 TRAVEL DAY MP $0/SC $0	11/16 MP: $404.25 SC: $672.67	11/17 MP: $404.25 SC: $672.67	11/18 MP: $404.25 SC: $672.67	11/19 MP: $404.25 SC: $672.67	11/20 MP: $404.25 SC: $672.67	11/21 MP: $404.25 SC: $0
11/22 MP: $404.25 SC: $0	11/23 MP: $404.25 SC: $672.67	11/24 MP: $404.25 SC: $672.67	11/25 MP: $404.25 SC: $672.67	11/26 MP: $404.25 SC: $672.67	11/27 MP: $404.25 SC: $672.67	11/28 MP: $404.25 SC: $0
11/29 MP: $404.25 SC: $0	11/30 MP: $404.25 SC: $672.67					

Lamar took **11 days of military** leave in November,
for which Employer pays him a total of **$7,399.37** in supplemental compensation.

LAMAR'S LEAVE: December 2026

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		12/1 MP: $404.25 SC: $672.67	12/2 MP: $404.25 SC: $672.67	12/3 MP: $404.25 SC: $672.67	12/4 MP: $404.25 SC: $672.67	12/5 MP: $404.25 SC: $0
12/6 MP: $404.25 SC: $0	12/7 MP: $404.25 SC: $672.67	12/8 MP: $404.25 SC: $672.67	12/9 MP: $404.25 SC: $672.67	12/10 MP: $404.25 SC: $672.67	12/11 MP: $404.25 SC: $672.67	12/12 MP: $404.25 SC: $0
12/12 MP: $404.25 SC: $0	12/13 MP: $404.25 SC: $672.67	12/14 MP: $404.25 SC: $672.67	12/15 MP: $404.25 SC: $672.67	12/16 MP: $404.25 SC: $672.67	12/17 MP: $404.25 SC: $672.67	12/18 MP: $404.25 SC: $0
12/19 MP: $404.25 SC: $0	12/20 MP: $404.25 SC: $672.67	12/21 MP: $404.25 SC: $672.67	12/22 MP: $404.25 SC: $672.67	12/23 MP: $404.25 SC: $672.67	12/24 MP: $404.25 SC: $672.67	12/25 MP: $404.25 SC: $0
12/26	12/27	12/28	12/29	12/30	12/31	

- Lamar took **19 days of military** leave in December, for which Employer pays him a total of **$12,780.73** in supplemental compensation.
- Since Lamar also took 11 days in November, Employer has no further payment obligation after 12/24/26, because Lamar has **reached his 30 days.**

LAMAR'S LEAVE: Jan- Feb 2027

- In the subsequent calendar year, Employer will need to restart Lamar's supplemental compensation.
- There are 30 weekdays between 1/1/27 and 2/11/27, so employer will pay Lamar supplemental compensation for those days.
- As of 2/12/27, Employer does not need to continue to pay supplemental compensation
  - If Lamar gets called in for additional training or duty later in 2027, Employer will not need to supplement his pay.
  - Whenever Lamar is on military leave, federal job protection laws still apply, even if Employer has satisfied its obligations under MLPPA.

QUESTIONS??

Things to Note

- It does not matter if the employee is a high wage-earner, or if they are salaried versus hourly—there are no exemptions.
- There is no cap on the dollar amount of supplemental compensation that the employer may need to pay, but the employer is only required to supplement the employee's pay for a maximum of 30 days per calendar year.
- Employer *may not require* that the employee use any PTO during their leave.
- If your employee has more than one job—call OLSE for guidance

Other Requirements

- Keep records of:
  - Schedules and hours worked
  - Military leave records
  - Supplemental compensation records
- Maintain records for **four years.**

Resources: San Francisco

- SF MLPPA Website: https://www.sf.gov/information--military-leave-pay-protection-act
  - Poster
  - FAQs
  - Statute
- SF MLPPA Email hotline: MLPPA@sfgov.org
- SF MLPPA Phone hotline: (415) 554-4048

- USERRA (federal law): US Dept of Labor

Resources: Federal/State

- USERRA (federal law): US Dept of Labor
- CFRA (CA law); CA anti-discrimination laws: California Civil Rights Dept.
- California Military and Veterans Code (CMVC): CA Office of the Attorney General

THANK YOU

