

SANTA CLARA WORKER RECALL ORDINANCE QUESTIONS & ANSWERS

What is the purpose of this ordinance?

The purpose of the Ordinance is to support building service, food service and hotel workers with the potential to return to their previous jobs as the pandemic recedes and business returns.

What companies and entities are covered by the ordinance?

Under the Emergency Ordinance, an “employer” includes:

- Entities with more than 25 employees in the state of California **that hire** a food service contractor or building service contractor at a business facility or entertainment/convention venue within the city of Santa Clara;
- Hotels with 50 or more guest rooms;
- Entities operating a contracted, leased, or sublet premises and services connected to or operated in conjunction with the employer, including food preparation facilities, concessions, janitorial services, maintenance services, security services, ushering and ticket taking services, retail stores, restaurants, bars, and structured parking facilities.

The City of Santa Clara and its Stadium Authority, Sports and Open Space Authority and Housing Authority are also covered. Other governmental entities such as the school district, county, community college, state and federal government are **not** subject to the provisions of this ordinance.

If you have questions if this ordinance is applicable to you, please contact attorney@santaclaraca.gov.

What employees are covered?

The Ordinance protects full or part time employees (8 hours or more per week) that have a length of service with the employer in the city of Santa Clara of six months or more and whose most recent separation from active employment by the employer occurred on or after March 17, 2020, as a result of a lack of business, a reduction in work force or other economic, non-disciplinary reason

Not included are managerial, supervisory, or confidential employees

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Does the Worker Recall Ordinance apply to seasonal workers?

The Worker Recall Ordinance applies to any person who: (1) In a particular week performed at least eight hours of work within Santa Clara; (2) has a length of service with the covered employer for six or more months and; (3) was separated from active employment on or after

March 17, 2020 because of lack of business, a reduction in the workforce, or other non-disciplinary reasons.

Would the amended Worker Retention Ordinance apply to seasonal workers?

Under the current Worker Retention Ordinance, an eligible food service and building service employee includes a person who: (1) performed at least eight hours of work a week in Santa Clara for a covered employer and; (2) worked for the covered employer during the 90 days immediately preceding any transition in employment. The proposed Worker Retention Ordinance would extend worker retention protections to hotel workers who meet the same criteria.

How does the ordinance work?

The Ordinance requires employers to offer a laid off worker any position which is, or becomes available, for which the laid off worker is qualified. Laid off workers must be offered a position in the order of priority below - if the laid off worker held the same or similar position at the same site of employment at the time of the laid off worker's most recent separation from active service with the employer; or can be qualified for the position with the same training that would be provided to a new worker hired into that position.

If more than one laid off worker is entitled to preference for a position, the employer shall offer the position to the laid off worker with the greatest length of service in (1) and then (2) with the employer at the employment site

A laid off worker who is offered a position shall be given no less than five (5) business days in which to accept or decline the offer.

What if there is a collective bargaining agreement?

A Collective Bargaining Agreement will continue to control unless there are additional protections offered to workers by the ordinance.

How is the Ordinance enforced?

A violation of the Emergency Ordinance can be enforced as a civil action in court. Remedies include hiring and reinstatement rights, actual damages, punitive damages and attorney's fees.

Should I be concerned about retaliation?

The Emergency Ordinance is clear that retaliation is prohibited against workers that:

- Seek to enforce their rights;
- Participate in proceedings related to an enforcement of the Emergency Ordinance;
- Mistakenly, but in good faith, allege non-compliance with the Emergency Ordinance.