

The American Rescue Plan Act (ARPA)

Emergency

Federal

Employee

Leave

DISCUSSION ON OPM GUIDANCE



Mark Dimondstein--President

Vance Zimmerman-- Director, Industrial Relations

EPEL

Emergency Federal Employee Leave

Sponsored By the
Office of the President
In Conjunction with the
Industrial Relations Department
Mark Dimondstein,
President
Vance Zimmerman,
Director Industrial Relations



Presented By
Charlie Cash
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APWU Code of Conduct

The APWU is committed to providing an environment free from discrimination and harassment. We ask all meeting participants to embrace our values of equity and equality and conduct themselves in this meeting consistent with those values. There is a designee as the first point of contact for anyone who thinks they have experienced discriminatory, harassing or otherwise unacceptable behavior. We urge you to contact the designee if you have any concerns.

Please note that the Code of Conduct applies to all meetings the APWU hosts, including meetings or calls held via Zoom or other software, and includes both discussion and Chat.

Meeting Designee: Hannah Decker (202) 842-4205

Overview

- Brief information on what American Rescue Plan Act (ARPA) and Emergency Federal Employee Leave (EFEL) is
- Overview of the OPM Guidance
- APWU's Understanding of how the Postal Service is Proceeding
- Questions and Answers
 - *PLEASE HOLD QUESTIONS UNTIL THE Q AND A PERIOD*
 - *Questions need to be general in nature and not specific to any case*
 - *Please use the "Raise Hand" function to be called upon*

Employees will need to make an informed decision on choosing to request EFEL. The APWU takes no position as to whether or not an employee should/should not request EFEL.

What Today is Not

- Not legal advice
- Not a guarantee EFEL will be approved or that there will be funds available
- Not a justification or explanation of why the Office of Personnel Management (OPM) set the guidance the way they did

What is the American Rescue Plan Act of 2021?

- Stimulus Bill signed into law by President Biden on March 11, 2021
- Many parts to the bill—Emergency Federal Employee Leave is just one
 - Section 4001—Emergency Federal Employee Leave Fund
 - Authorizes \$570,000,000 (\$570 million) to pay federal employees (including Postal Employees) for time away from work related to COVID-19
 - Authorizes OPM to use part of the money for expenses related to administering the fund
 - Authorizes OPM to set the policies and issue guidance on EFEL and its application
- *EFEL and its provisions were set by Congress and policies determined by OPM*
 - *It was not negotiated by the APWU or any other union.*

Qualifying Reasons

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID–19;
2. has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;
3. is caring for an individual who is subject to such an order or has been so advised;
4. is experiencing symptoms of COVID–19 and seeking a medical diagnosis;
5. is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions;
6. is experiencing any other substantially similar condition;
7. is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID–19; or
8. is obtaining immunization related to COVID–19 or is recovering from any injury, disability, illness, or condition related to such immunization.

Limitations of Law

- Leave only available March 11, 2021 through September 30, 2021 (end of fiscal year 2021)
- Full-time employees can take no more than 600 hours of EFEL
- Part-time employees get proportional allotment up to 600 hours based on work schedule
- Paid at the same hourly rate as sick or annual leave
- No employee can receive more than \$2,800 per pay period in EFEL
- Can be used in conjunction with other leave—i.e. one day annual, next day EFEL
- Cannot be paid concurrently with other leave (no double dipping)
- **ANY HOURS USED WILL NOT COUNT TOWARDS SERVICE CREDIT FOR RETIREMENT**
- **Ability to use EFEL ends as soon as the funds run out!**

Important Points to Remember:

- Postal Employees are not “Title 5” employees
- This *is not the same thing as* Families First Coronavirus Recovery Act leave
- Office of Personnel Management (OPM) was tasked with establishing policies, procedures, forms, etc.
- Section 4001 is 688 words long (less than 2 typed pages), OPM issued guidance is nearly 50 pages long and thousands of words

The Money—\$570 million

- There are at least 2.9 million federal employees eligible for this leave
 - There will not be enough money for every employee to use all 600 hours each
 - 1.74 Billion eligible hours to be paid
 - If everyone is paid the maximum allowed (\$2,800 bi-weekly or \$35 per hour) that equates to **\$60.9 Billion Dollars!**
 - \$570 million is less than 1% of the eligible hourly pay
- Once money gone—EFEL will not be granted barring Congress authorizing additional funds (see page 1, attachment 2 Section A.3)
- OPM is allowed to deduct “reasonable” fees to administer the EFEL program
- As of end of April, Postal Employees had used about 13% of the fund.

OPM Guidance

- OPM issued [Guidance](#) on April 28, 2021
 - [Attachment 1 COVID-19 Emergency Paid Leave Key Features](#)
 - [Attachment 2 Guidance on COVID-19 Emergency Paid Leave](#)
 - [Attachment 3 Template—Request to Use COVID-19 Emergency Paid Leave](#)
 - [Attachment 4 Template—COVID-19 Emergency Paid Leave Employee Agreement](#)
 - [Attachment 5 COVID-19 Emergency Paid Leave Questions and Answers](#)
 - This document is not very useful and is directed at agency heads

Attachment 1

- Basic overview of the law—for agencies. This is not aimed at the regular employee
- One useful section is at the end
 - “Responsibilities of Agencies”
 - Two most important to us:
 - Must inform employees of EFEL
 - Approve conditional use of leave once determining employee eligible and agreement is signed

Attachment 2—The Guidance

This is the probably the most significant document in the guidance

- Section A—General Information
- Section B—this section restates Postal Employees are eligible
- Section C—Fund Administration
 - Instructs agencies how to get reimbursed for conditional EFEL approved and paid by the agency
 - OPM will update agencies on funds remaining/available:
 - [American Rescue Plan Act of 2021 \(opm.gov\)](#)
 - NOTE: Status of funds is at bottom of page, as of May 3, 2021, data had not been posted

Section C continued

- States approving of the leave is “conditional” on monies being available in the fund
 - “Conditional approval” or “Conditionally approved” means that the leave is approved and paid to the employee contingent on *funds being available and the agency is reimbursed for the payment to the employee.*
- In this section OPM requires the signing of the “employee agreement” This is a statement that the employee understands the leave is approved conditionally and that if the fund is exhausted the employee will apply other paid leave or pay back monies paid to them.
 - *Does not waive any grievance rights*
 - *Does not waive rights to apply for a waiver*
 - *Does not waive any rights under the Debt Collection Act*
 - *We suggest people sign the form. Failure to sign the form could lead to delay or denial of EFEL.*
- This section also states agencies must inform the employees of the effects on retirement and the possibility of collection activities occurring

Section D

- Qualifying Circumstances
 - Requires employee certify they are unable to work because of one of the qualifying circumstances
 - Section D.3 goes over the qualifying circumstances and provides important information on the meanings of the qualifying circumstances



Circumstance 1

is subject to a Federal, State, or local quarantine or isolation order related to COVID-19

- Postal Service takes position this does not apply to Postal Employees
 - Essential Employees
- Employees do qualify when:
 - An employee is subject to “isolation” when the employee has a positive COVID-19 test result or displays COVID-19 symptoms, as described in guidance issued by the Centers for Disease Control and Prevention (CDC).
 - An employee is subject to “quarantine” when exposed to COVID-19, as described in CDC guidance.
- Employees could/may qualify if having traveled and are subject to 14-day quarantine upon return and wish to quarantine.

Circumstance 2

has been advised by a health care provider to self-quarantine due to concerns related to COVID-19

- Defines “health care provider”
 - Uses same definition as FMLA
 - [5 CFR 630.1202](#)

Health care provider means -

- (1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this subpart;
- (2) Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question;
- (3) A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law;
- (4) A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or
- (5) A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95-314, August 11, 1978 (92 Stat. 469), as amended by Public Law 103-344, October 6, 1994 (108 Stat. 3125).

Circumstance 3

is caring for an individual who is subject to such an order or has been so advised

- Defines Individual as a “family member”

- [5 CFR 630.201](#)

Family member means an individual with any of the following relationships to the employee:

- (1) Spouse, and parents thereof;
- (2) Sons and daughters, and spouses thereof;
- (3) Parents, and spouses thereof;
- (4) Brothers and sisters, and spouses thereof;
- (5) Grandparents and grandchildren, and spouses thereof;
- (6) Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (2) through (5) of this definition; and
- (7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Circumstance 4

is experiencing symptoms of COVID-19 and seeking a medical diagnosis

- Must be taking “affirmative steps” to get a diagnosis
 - For example:
 - Test scheduled/awaiting results
 - Scheduled doctor appointment

Leave under this circumstance covers the time it takes an employee experiencing symptoms to obtain a medical diagnosis, as long as the employee is taking affirmative steps (i.e., actively seeking) to obtain a diagnosis as soon as possible.



Circumstance 5

is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions

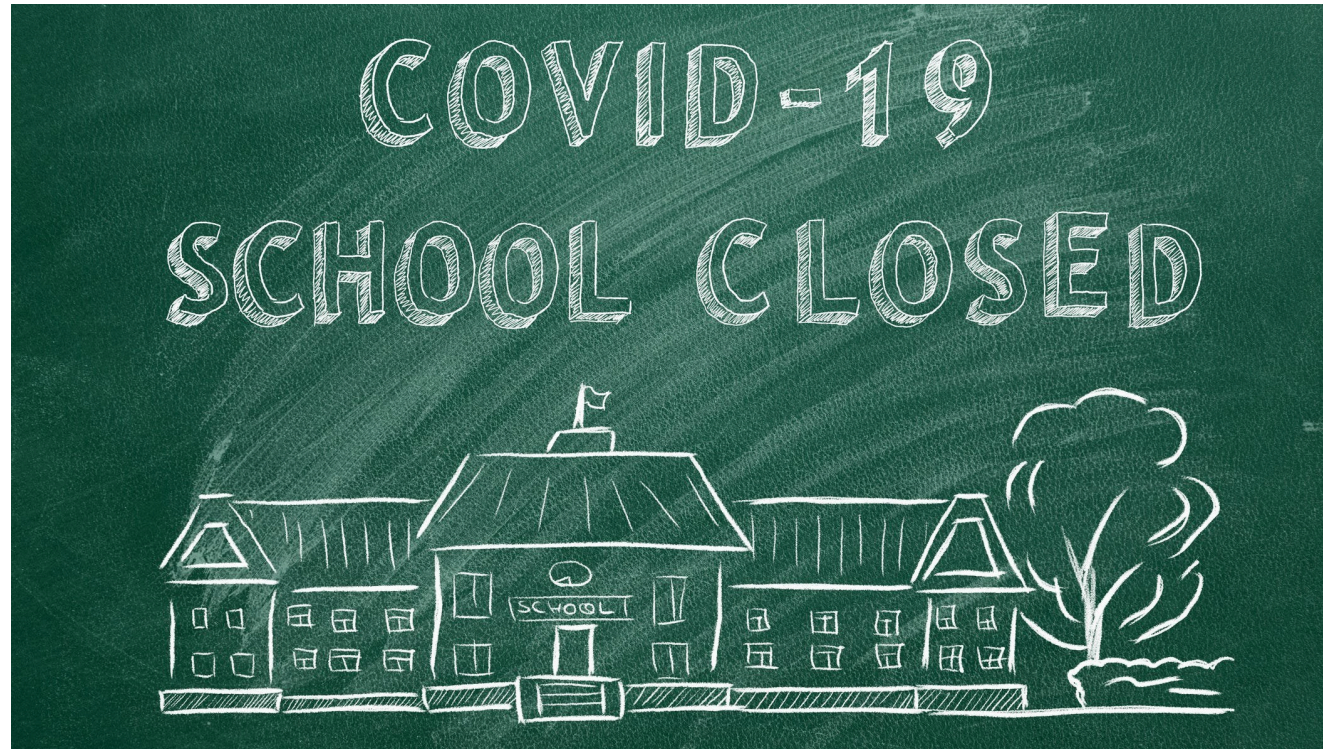
- OPM Definitions
 - The term “son or daughter” has the meaning given that term in OPM FMLA regulations at 5 CFR 630.1202—i.e., a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability.
 - The term “school” means an elementary school or secondary school, except that the term does not include any education beyond grade 12.
 - The term “place of care” means a physical location in which care is provided for the employee’s child while the employee works for an agency. The physical location does not have to be solely dedicated to such care. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.

Circumstance 5–continued

- OPM Definitions
 - The term “child care provider” means a provider who would normally be available to provide care of an employee’s child (including a center-based child care provider, a group home child care provider, a family child care provider, a family member, a friend or neighbor), regardless of whether the care is compensated.
 - This circumstance applies only when an employee needs to, and actually is, caring for the employee’s son or daughter and if the employee is unable to work (including telework) as a result of providing care.
 - The closure of schools or the use of virtual learning instruction models must be due to COVID-19 precautions. The nonavailability of a child care provider must be due to COVID-19 precautions.

Circumstance 5–continued

- Schools, day care, closed for normal summer breaks, etc. do not qualify
- MUST BE COVID-19 RELATED!



Circumstance 6

is experiencing any other substantially similar condition

*No one can qualify under this circumstance
unless and until OPM approves a defined
“substantially similar condition” under
circumstance 6*

CIRCUMSTANCE 7

is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19

- See again [5 CFR 630.201](#)
- The term “mental or physical disability” means a “physical or mental impairment” that “substantially limits” one or more of the “major life activities” of an individual, based on the definitions in 29 CFR 1630.2 (h), (i) and (j).
- The term “incapable of self-care” means that the person requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL’s) or “instrumental activities of daily living” (IADL’s). Activities of daily living include adaptive activities such as caring appropriately for one’s grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc.

Circumstance 7 Continued

- The term “place of care” means a physical location in which care is provided for the family member while the employee works for an agency. The physical location does not have to be solely dedicated to such care.
- For this circumstance to apply, the family member must (1) have a mental or physical disability or be 55 years of age or older, and (2) be incapable of self-care



Circumstance 8

is obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization



- Postal Service is taking the position they will not grant administrative leave
 - Employees can use own leave or EFEL
 - The APWU is seeking clarification from OPM on the administrative leave issue
- Postal Service should grant “reasonable” time
 - OPM states agencies should allow up to 4 hours per dose for actual vaccination
 - OPM states agencies should allow up to 2 days per dose for “adverse reactions”
- Documentation Guidelines
 - To confirm eligibility for EPL based on qualifying circumstance (8), an employee must provide to the agency a written self-certification that the leave will be (or was) used to obtain immunization related to COVID-19 or to recover from any injury, disability, illness, or condition related to such immunization.
 - For adverse reactions APWU takes the position that Postal Service should follow “self-certification” guidelines for sick leave in Article 10.5.d (page 37 of [2018-2021 CBA](#))

Section E

- Short explanation of how EFEL can be used and is paid related to other leave
 - Paid at same hourly rate as sick and annual leave
 - *Does not include premium pay (Sunday) or Night Differential for Postal Employees*
 - Postal Employees are not Title 5 employees so leave pay is based on normal practices
 - Maximum of 80 hours can be paid per pay period
 - Part-time employees (PTFs and PSEs)
 - Average number of weekly hours over the previous 13 pay periods up to a maximum of 40 hours per week (same procedure as FMLA and FFCRA)
 - If an employee has not been employed for 13 pay periods the average is determined over the length of employment.
 - NTFTs and PTRs can use up to the amount per week of their normal bid schedule

Section E continued

- Dollar Amounts
 - Maximum of \$2800 per pay period
 - Employees earning up to \$35.00 per hour would get full pay
- APWU Represented Employees over \$35.00 per hour who not get full amount:
 - PS and K Scale: Level 10 Steps O and P, Level 11 Steps M, N, O, P
 - IT/AS (N) Scale: All Levels and Steps
 - Nurses (G) Scale: Grade 1 Steps 11, 12, 13, 14, 15; PTF Nurses Grade 1 Steps 9, 10, 11, 12, 13, 14, 15
 - For the employees listed above, take \$2,800 and divide by hourly rate. That equals bi-weekly hours they can be paid EFEL.

Example: Level 10 Step P employee makes \$35.7221 per hour.
 $2800/35.7221=78.38$ hours. This employee can use 78 hours per pay period.

Section F

- Notification requirements
 - Agency can require employee to follow normal notification process
 - Postal Service is requiring PS-Form 3971;
 - OPM [Request to Use COVID-19 Emergency Paid Leave](#) form;
 - OPM [COVID-19 Emergency Paid Leave Agreement](#) form
 - Circumstances 5 and 7
 - Must provide notice as soon as “practicable” (OPM: “generally be prior to the first workday leave is used if the leave was foreseeable.”)
 - Failure to give proper notice ***is not grounds for denial.*** Postal Service must give employee opportunity to provide required documentation prior to denying request.
 - Employee’s spokesperson (e.g. spouse, adult family member/responsible party) can give notice if employee is unable to do so

Section F-continued

- OPM requires employee to provide Postal Service the following:
 - Date(s) for which EFEL is requested;
 - Description of the qualifying circumstance justifying use of EPL;
 - Written statement (self-certification) that the employee is unable to work (including telework) because of the cited qualifying circumstance and that the employee will meet the conditions associated with the cited qualifying circumstance during the use of EPL; and
 - *Written statement (self-certification) meeting the requirements described in C3 indicating that the employee understands (A) that approval of emergency paid leave is conditional upon the availability of monies in the Fund, and (B) what obligations the employee will have if the leave is cancelled due to exhaustion of the Fund. (NOTE: Agencies must have employees sign this statement before approving an employee's first use of EPL. An agency may require a separate certification in connection with each subsequent use of EPL by the employee but is not obligated to do so.)*

Section F-continued

- To confirm eligibility for qualifying circumstance (1), an employee must provide to the agency the governmental quarantine or isolation order applicable to the employee.
- To confirm eligibility for EPL based on qualifying circumstance (2), an employee must provide to the agency the name of the health care provider who advised the employee to self-quarantine due to concerns related to COVID–19.
- To confirm eligibility for EPL based on qualifying circumstance (3), an employee must provide to the agency the same documentation described in paragraph b or c, as applicable.
- To confirm eligibility for EPL based on qualifying circumstance (4), an employee must provide to the agency a written self-certification that the employee is experiencing symptoms of COVID-19 and taking immediate steps (scheduled testing/doctor appointment) to obtain a medical diagnosis.

Section F—continued

- To confirm eligibility for EPL based on qualifying circumstance (5), an employee must provide to the agency—
 1. the name of the son or daughter being cared for;
 2. the name of the school, place of care, or child care provider and a brief description of the situation (i.e., closure, use of on-line instruction, unavailability of the child care provider); and
 3. a written explanation regarding why the employee's circumstances (e.g., ages of children, number of children, special needs of children, lack of other adults in the home) make the employee unable to work (including telework) during the requested hours of leave.

Section F—continued

- To confirm eligibility for EPL based on qualifying circumstance (7), an employee must provide to the agency documentation as follows—
 1. the name of the family member with a mental or physical disability and a written certification by the employee that the identified family member has a mental or physical disability (as defined in paragraph D.9.b), if applicable;
 2. the name and age of the family member that is 55 years or older, if applicable;
 3. a written certification by the employee that the identified family member is “incapable of self-care” (as defined in paragraph D.9.c);
 4. the name of the place of care that is closed or the direct care provider that is unavailable and a written explanation of how the closure or unavailability is due to COVID-19; and
 5. a written explanation regarding why the employee’s care responsibilities make the employee unable to work (including telework) during the requested hours of leave.
- To confirm eligibility for EPL based on qualifying circumstance (8), an employee must provide to the agency a written self-certification that the leave will be (or was) used to obtain immunization related to COVID-19 or to recover from any injury, disability, illness, or condition related to such immunization.

Section F-continued

- ***IMPORTANT NOTE***

- In addition to the above generally required documentation requirements, an agency is authorized to request additional reasonable information, explanations, or certifications from an employee *if the agency has reason to believe that EPL is not being used for the qualifying circumstance(s) invoked by the employee.*

If any employee is instructed to provide documentation beyond what is listed on the form they should bring it to the attention of the union.

Section G

- Hours of EFEL used *are not credited towards retirement*
- 600 hours of EFEL equates to a reduction of 3 months and 14-days in creditable service to retirement
- See examples in the guidance
 - One example used shows a FERS employee losing \$21 a month in annuity if they use 600 hours.
 - If that employee retires and lives another 25 years after retirement they will lose \$6,300 in annuity payments and the COLA increases that go with it.
- If an employee has excess annual leave (over 520 hours) at end of the year, they will lose the overage even though they used EFEL.

Attachment 3—

Request to Use EFEL Form

Postal Service is using the OPM template. This form is required to be submitted with requests for EFEL.

COVID-19 Emergency Paid Leave (EPL) Employee Notification and Leave Request Form		
Identifying Information		
Employee name		
Phone number (work)	Email address (work)	
Name of organization (agency, office, division, branch, etc.)		
EPL Qualifying Circumstance Causing the Employee to be Unable to Work		
Employee is unable to work because the employee is—		
<input type="checkbox"/> (1) Subject to COVID-19 governmental quarantine or isolation order/advisory <input type="checkbox"/> (2) Advised by health care provider to self-quarantine due to COVID-19 concerns <input type="checkbox"/> (3) Caring for an individual subject to (1) such order/advisory or (2) such advice <input type="checkbox"/> (4) Experiencing symptoms of COVID-19 and actively seeking (i.e., taking immediate steps to obtain) a medical diagnosis <input type="checkbox"/> (5) Caring for a child when required because, due to COVID-19 precautions, the child's school or place of care has been closed, or the child is participating in virtual learning instruction, or the child's care provider is unavailable <input type="checkbox"/> (6) Experiencing any other substantially similar condition (as approved by OPM) <input type="checkbox"/> (7) Caring for a family member (i) who has a "mental or physical disability"* or who is 55 years of age or older and (ii) who is "incapable of self-care"*, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19 (* as those terms are defined in OPM guidance) <input type="checkbox"/> (8) Obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization (after using any administrative leave provided by the employing agency)		
Dates	Anticipated	Actual
Date use of EPL begins		
Date use of EPL concludes		
Employee Certifications (initial each box)		
<input type="checkbox"/> I attest that I will be using EPL to be excused from duty only during hours when I am unable to work (including telework) because an EPL qualifying circumstance applies to me.		
<input type="checkbox"/> I understand that any EPL provided to me will reduce my total creditable service used to calculate any Federal civilian retirement annuity benefit I may receive.		
<input type="checkbox"/> I attest that I have signed the EPL Employee Agreement and understand that the granting of EPL is conditional upon the availability of monies in the EPL Fund and that I will be obligated to take action as described in the EPL Employee Agreement to resolve any overpayment debt if conditional EPL is cancelled due to Fund exhaustion.		
<input type="checkbox"/> I hereby certify that all statements made in this application are true and correct to the best of my knowledge and belief. I understand that a false or misleading certification may be grounds for disciplinary action, up to and including removal.		
Employee's signature		Date

Attachment 4— Employee Agreement Form

Attachment 4

Postal Service is using the OPM template. OPM is requiring it to be submitted with requests for EFEL.

The form includes this very important language:

However, I reserve the right to challenge the agency decision through any applicable administrative grievance procedure, negotiated grievance procedure, or judicial process and to seek return of any amounts erroneously collected from me.

Employees are not waiving their right to file a grievance on collection!

Template: Employee Agreement in Connection with Emergency Paid Leave (EPL) Provided Under Section 4001 of the American Rescue Plan of 2021

[to be signed before approval of an employee's first use of EPL]

I, *[insert employee's name]*, understand that my agency is granting EPL on a conditional basis, subject to the availability of monies in the EPL Fund. I understand that, if the EPL Fund is exhausted before my agency receives reimbursement from the Fund for any use of EPL by me, the affected conditional EPL will be cancelled, and I will be responsible for eliminating the resulting leave debt by taking one or both of the following actions:

- Requesting other paid leave or paid time off (as available to me and as appropriate for the given circumstance under normal leave rules) to substitute for the cancelled EPL—for example: annual leave (including advanced annual leave), sick leave (including advanced sick leave), compensatory time off for overtime work, compensatory time off for travel, credit hours under a flexible work schedule, and any limited amount of administrative leave that my agency may grant me.

and/or

- Voluntarily providing monetary reimbursement to the agency to satisfy the overpayment debt resulting from receiving payments for a period of time when I should have been in leave without pay status.

If I do not eliminate the leave debt by substituting other paid leave or paid time off, I agree to make the required monetary reimbursement to the agency that granted conditional EPL and to permit offset of Federal payments (including salary payments) to recover the amount owed. (Note: Any offset of salary payments will be limited to 15 percent of an employee's disposable pay, except in the case of a final check at the time of separation from employment.) However, I reserve the right to challenge the agency decision through any applicable administrative grievance procedure, negotiated grievance procedure, or judicial process and to seek return of any amounts erroneously collected from me.

Employee's Signature _____ Date: _____

Note: This employee agreement must be filed with an employee's EPL request(s).

Attachment 5—

Questions and Answers

- This is an OPM document and is general in nature for all Federal Employees.
 - Questions 1 through 5 describe what EFEL is
 - Questions 6 through 16 are for federal employees—this is general and not aimed at any specific agency's employees.
 - Questions 17 through 21 are for agencies. Question 21 gives the website where the fund balance can be viewed.



Postal Service Implementation

The Postal Service issued instructions on how to proceed with the implementation of the OPM Guidance. The APWU was not consulted.

USPS Letter to Field/Guidance

- Doug Tulino, Chief Human Resources Officer and Executive Vice President issued a letter to the field on April 30, 2021 based on the OPM Guidance

[Click Here for Tulino Letter and Forms](#)

- The letter basically followed and reiterated the OPM Guidelines
 - Requires PS-Form 3971 be completed
 - Check “other”, write *EFEL* on the line, in remarks box write *Emergency Federal Employee Leave Circumstance (number)*
 - Requires [COVID-19 Emergency Federal Leave Notification and Leave Request Form](#)
 - Requires Signed [COVID-19 Emergency Paid Leave Agreement](#)
 - Request and Documents must be submitted to supervisor or manager
 - *Employees cannot use the IVR (call in number) to request EFEL*

USPS Letter to Field/Guidance continued

Re-Stating APWU Position on Employee Agreement Form

- Does not waive any grievance rights
- Does not waive rights to apply for a debt waiver
- Does not waive any rights under the Debt Collection Act
- We suggest people sign the form. Failure to sign the form could lead to delay or denial of EFEL.

OPM and the Postal Service take the position that if an employee refuses to sign the form, their EFEL request will be denied!

USPS Letter to Field/Guidance continued

- For Employees granted leave under the interim policy (March 11, 2021 to April 30, 2021, the Postal Service is requiring:
 - Signed [COVID-19 Emergency Federal Leave Notification and Leave Request Form](#)
 - Signed [COVID-19 Emergency Paid Leave Agreement](#)
 - Management is responsible for distributing forms to all employees who have utilized EFEL (see page 2 of Tulino Letter)
 - Employees have 10-days to return the required paperwork to their supervisor (see page 1 of the Tulino Letter)
- *Failure to provide the required documentation will result in Postal Service changing EFEL to LWOP or the employee may elect to use another paid type of accrued leave.*
 - *The Postal Service will begin collection/repayment efforts if EFEL changed to LWOP*

USPS Letter to Field/Guidance continued

- Postal Service is required to keep all documents for 4-years for EFEL leave
- APWU is requesting these documents be treated the same as any medical information turned over to the Postal Service



COVID-19 Request to use EFEL Form

- This form is a carbon copy of what OPM sent to Agencies
 - Everything OPM needs is listed on the form
 - It is important to provide all the required documentation
 - Note that for Circumstances 4 and 8 it states on the form *No generally required additional documentation*

If the form is completed properly and the employee meets the criteria for one of the qualifying circumstances, employees should have their EFEL requests “conditionally” approved



Common Questions sent in for webinar—APWU Position

Q: How long do I have to be employed at the USPS to use EFEL?

A: All employees (including PSEs) are eligible from their first day on the job.

Q: My kid's school has virtual and in-person options. If I choose virtual can the Postal Service deny my leave because in-person option is available?

A: No. Under FFCRA they could deny the leave but under EFEL they cannot.

Q: Summer break is coming up for my kids. Can I utilize EFEL to stay with them during summer break?

A: No, unless your normal summer care program (day care, camp, recreation program, friend/relative providing care) is unavailable due to COVID-19 reasons.

Common Questions sent in for webinar—APWU Position **continued**

Q: Management has asked for additional information beyond what was listed on the request form. Is this proper?

A: The law allows them to ask for additional “reasonable” supporting documentation if they suspect you are not using EFEL for the qualifying circumstance you certified you needed leave for. You should contact your shop steward if a request like this occurs.

Q: I refused to sign the employee agreement. Management is now denying my EFEL request can they do this?

A: Management and OPM require the form to be signed. If you do not sign it, your leave will more than likely be denied. Signing the form does not waive any current or future grievance rights.

Common Questions sent in for webinar—APWU Position continued

Q: Management tells me the funds ran out and they are changing some of my EFEL to LWOP or paid leave of my choosing can they do this?

A: Based on OPM's interpretation of the law and guidance given, this is what the agencies are instructed to do.

Q: If management changes some of my EFEL to LWOP, can I request advance sick leave to cover it if I don't have any leave accrued?

A: Yes. You can always request advance sick leave. However, you will be subject to normal policies, procedures, and approval processes for requesting advance sick leave.

Q: Do COVID-19 long haulers qualify for leave under EFEL?

A: Yes. The APWU believes this falls under *Qualifying Circumstance 2*

Common Questions sent in for webinar—APWU Position continued

Q: An employee had their EFEL request denied in early April. They took LWOP. Can they have it changed to EFEL retroactively?

A: Yes.

Q: An employee had their EFEL request denied in early April. They took paid sick leave instead. Can they have it changed to EFEL retroactively?

A: That is unclear. OPM says they can if they were “unaware” of the EFEL provisions. If they were denied for an arbitrary reason, an employee could ask for that leave to be changed now that guidance has been issued. A grievance could always be filed asking it be changed. But if the fund is gone before the grievance reaches its conclusion what the remedy would be is unclear.

Common Questions sent in for webinar—APWU Position continued

Q: What documentation must I present to prove I used EFEL for a vaccination?

A: OPM does not list any required documentation for circumstance 8, but it could be in your best interest to be prepared to provide a vaccination record card or record of vaccine appointment.

Q: How can we see how much is in the fund?

A: OPM has set up a website. The information is at the bottom of the webpage. As of May 4, 2021, the amount had not been posted. Go here: [American Rescue Plan Act of 2021](#)
[\(opm.gov\)](#)

Common Questions sent in for webinar—APWU Position continued

Q: Can I file grievances on things related to EFEL?

A: Yes. You can file a grievance if you feel that your request was improperly denied, documentation requests were unreasonable, etc. You can also file a grievance if *Letter of Demand* is issued or other collection efforts are undertaken to seek repayment of paid EFEL. The APWU cannot guarantee a grievance will be successful, guarantee any type of remedy, nor should this answer be taken as an instruction to file a grievance. Discuss any issues with your local stewards and officers and make an informed decision about initiating a grievance.

Questions

?

?

Answers

?

PLEASE USE THE “RAISE
HAND” BUTTON TO BE
CALLED UPON—LIMIT
QUESTIONS TO
GENERAL IN NATURE
AND NOT SPECIFIC TO
AN INDIVIDUAL OR CASE

If you were unable to download the seminar documents

please email:

Charlie Cash

ccash@apwu.org



COVID-19 Emergency Paid Leave

Thursday, April 29, 2021
CPM 2021-15



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

From: Kathleen M. McGettigan, Acting Director

Subject: COVID-19 Emergency Paid Leave

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (Public Law 117-2). The Act included provisions authorizing emergency paid leave (EPL) for covered Federal employees in specified qualifying circumstances through special funds.

The EPL provision in section 4001 of the Act is administered by the U.S. Office of Personnel Management (OPM). The attachments to this memorandum provide necessary guidance, including a high-level summary of key features, detailed guidance, templates, and answers to frequently asked questions.

OPM also has responsibility to provide detailed guidance on implementing the retirement provisions in the EPL authorities administered by OPM, the Federal Aviation Administration, the Transportation Security Administration, and the U.S. Department of Veterans Affairs. That guidance is being provided in a separately issued Benefits Administration Letter.

In addition, OPM is issuing separately another Benefits Administration Letter providing detailed instructions to agencies on submitting reimbursement claims to the OPM-administered Fund established under section 4001 of the Act.

Additional Information

Agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov with their questions. Agency field offices should contact their appropriate headquarters-level agency human resources office. Employees should contact their agency human resources office for further information on this memorandum.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, Human Resources Directors, and Work-Life Coordinators

Attachments (See 508-conformant PDFs below)






- Attachment 1: Summary of Key Features
- Attachment 2: Guidance on COVID-19 Emergency Paid Leave
- Attachment 3: Template: Employee Notification and Leave Request Form
- Attachment 4: Template: Employee Agreement
- Attachment 5: Answers to Frequently Asked Questions

Related Benefits Administration Letters (BALs) posted at

<https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/>

- BAL 21-102, “The American Rescue Plan Act of 2021—Emergency Paid Leave Effect on Retirement”
- BAL 21-303, “COVID-19 Emergency Paid Leave Reimbursement”

Attachment(s):

-  [Attachment 1 COVID-19 Emergency Paid Leave Key Features.pdf](#)
-  [Attachment 2 Guidance on COVID-19 Emergency Paid Leave.pdf](#)
-  [Attachment 3 Template - Request to Use COVID-19 Emergency Paid Leave.pdf](#)
-  [Attachment 4 Template - COVID-19 Emergency Paid Leave Employee Agreement.pdf](#)
-  [Attachment 5 COVID-19 Emergency Paid Leave Questions and Answers.pdf](#)

Summary of Key Features
COVID-19 Emergency Paid Leave (EPL) Section
4001 of the American Rescue Plan Act of 2021
(Public Law 117-2, March 11, 2021)

Note: This is a high-level summary and must be read with the detailed information in OPM's "Guidance on COVID-19 Emergency Paid Leave" to properly implement the authority.

General Information

- \$570 million fund administered by OPM.
- EPL authorized only if paid out of the Fund.
- Covers employees under the title 5 annual leave and sick leave program plus employees of the United States Postal Service, the Postal Regulatory Commission, the Public Defender Service for the District of Columbia, and the District of Columbia Courts.
- Applies to qualifying leave taken during period from March 11 through September 30, 2021.
- 8 qualifying circumstances:
 - (1) Subject to Federal, State, or local government quarantine or isolation order related to COVID-19 (including government advisory).
 - (2) Advised by health care provider to self-quarantine due to COVID-19 concerns.
 - (3) Caring for an individual subject to (1) such order/advisory or (2) such advice.
 - (4) Experiencing symptoms of COVID-19 and actively seeking a medical diagnosis.
 - (5) Caring for employee's child when required because, due to COVID-19 precautions, the child's school or place of care has been closed, or the child is participating in virtual learning instruction, or the child's care provider is unavailable.
 - (6) Experiencing any other substantially similar condition (as approved by OPM).
 - (7) Caring for a family member (i) who has a mental or physical disability or who is 55 years of age or older and (ii) who is incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19.
 - (8) Obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization (after using any administrative leave provided by the employing agency).
- Employee must be unable to work (including telework) because of a qualifying circumstance.
- Employee will be required to submit supporting documentation and certifications.
- EPL is paid at same hourly rate as annual leave.
- EPL is a separate leave entitlement used at employee request; employee may not be required to first use any other available paid leave.
- Limitation on EPL hours:
 - Biweekly limit (EPL hours allowed only to extent that the value of those EPL hours in a biweekly pay period does not exceed \$2,800 for full-time employee or equivalent limit for part-time employee, which can limit number of leave hours);
 - Aggregate limit (total of 600 hours for regular full-time employee or equivalent limits for employees with part-time, seasonal, or uncommon tours);
 - Fund exhaustion (no EPL available once the Fund is exhausted).

- Due to possibility of Fund exhaustion, EPL is granted on a conditional basis. If an agency does not receive reimbursement for conditionally granted EPL, that EPL will be cancelled and the employee will be obligated to take action to resolve any overpayment debt.
- In calculating an employee's retirement annuity benefit, total creditable service will be reduced by the amount of EPL used.
 - Hours of EPL remain creditable service for purposes of (1) determining an employee's total service credit for the purpose of establishing eligibility for a retirement annuity benefit and (2) determining periods of time during which an employee has a rate of basic pay used in computing an employee's high-3 average rate of basic pay.
 - Basic pay generated by EPL is subject to retirement and Thrift Savings Plan (TSP) deductions/contributions.
 - Time covered by EPL remains creditable service for other purposes (just as other paid leave)—e.g., creditable service for purposes of determining an employee's annual leave accrual rate.
 - OPM will be providing instructions on annotating employees' Individual Retirement Record.

Fund Administration

- Agencies submit claims for reimbursement after conditionally granted EPL is used (after completed biweekly pay period)—claim is a lump-sum dollar amount associated with a specified biweekly pay period.
- OPM processes agency claims on a first-come/first-served basis.
- OPM relies on agency certifications.
- OPM will provide specific instructions to agency Chief Financial Officers.

Responsibilities of Agencies

- Inform employees of EPL (eligibility requirements, limitations, conditional nature of leave, effect on any future retirement benefit).
- Process employee requests; obtain from employee required documentation and certifications.
- Approve conditional use of leave (conditional on Fund not being exhausted, and on execution of employee agreement describing employee's obligation to take action to resolve any overpayment debt if conditional EPL is cancelled due to Fund exhaustion) after determining employee eligibility.
- Apply biweekly limit (\$2,800 or equivalent) to determine number of hours that may be granted in a biweekly pay period.
- Apply aggregate limit (600 hours or equivalent); stop granting leave when limit reached.
- Submit certified reimbursement claims to OPM.
- Resolve any cases where conditional leave is cancelled due to exhaustion of the Fund.
- Document use of EPL when employee transfers to another agency or separates.
- Maintain records on approval/denial of individual employee requests (4 years).
- Make changes in timekeeping/payroll systems or develop outside system to apply biweekly and aggregate limits.
- Annotate Individual Retirement Records to document use of EPL.
- Take into account EPL hours used by an employee when providing retirement annuity estimates.

Guidance on COVID-19 Emergency Paid Leave (Section 4001 of the American Rescue Plan Act of 2021)

A. General Information

1. The American Rescue Plan Act of 2021 (Public Law 117-2) was enacted on March 11, 2021.
2. Section 4001 of the Act established a new category of paid leave for certain categories of Federal employees based on certain COVID-19-related qualifying circumstances. This paid leave is hereafter referred to as “emergency paid leave” or “EPL.” This emergency paid leave is to be funded by a \$570 million Emergency Federal Employee Leave Fund (hereafter referred to as the “Fund”) administered by the Director of the Office of Personnel Management.

NOTE: Sections 7103, 7104, and 8008 of the Act establish a similar authority and Fund for employees of the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), and the Department of Veterans Affairs (VA; limited to those appointed under chapter 74 of title 38, United States Code), respectively. Except for section G, this guidance pertains solely to employees covered by section 4001. VA employees appointed under 38 U.S.C. chapter 74 are covered by either a VA-established leave system under 38 U.S.C. 7421 or the title 5 annual and sick leave program. Those VA employees who are appointed under 38 U.S.C. chapter 74 and who are covered by the title 5 annual and sick leave program are covered by both section 8008 and section 4001.

3. Section 4001 does not provide authority to offer paid leave outside of the Fund mechanism. Any paid leave provided under the section 4001 authority must be covered by payments from the Fund. If the Fund is exhausted, payments of paid leave under this authority will cease.
4. Under section 4001(c)(1), emergency paid leave may be used by a covered employee only during the “qualifying period,” which begins on the date of enactment of the Act (March 11, 2021) and ends on September 30, 2021.

B. Coverage

1. Section 4001 covers the following categories of employees:
 - a. an individual in the executive branch for whom annual and sick leave is provided under subchapter I of chapter 63 of title 5, United States Code;
 - b. an individual employed by the United States Postal Service;
 - c. an individual employed by the Postal Regulatory Commission; and
 - d. an employee of the Public Defender Service for the District of Columbia and the District of Columbia Courts.

2. An employee in category “a” in paragraph B.1 is an individual who—
 - a. is an employee appointed in the civil service as described in 5 U.S.C. 2105 (as provided in 5 U.S.C. 6301(2)(A));
 - b. holds a civil service position in the executive branch; and
 - c. is covered by the title 5 annual and sick leave program (i.e., not excluded from coverage by another law and not in an excluded category listed in clauses (i) through (xiii) of 5 U.S.C. 6301(2)).

NOTE 1: Foreign Service employees are “civil service” employees under 5 U.S.C. 2105. See definition of “civil service” in 5 U.S.C. 2101.

NOTE 2: Examples of employees excluded from coverage under the title 5 annual and sick leave program by another law include employees of the Federal Aviation Administration, the Transportation Security Administration, and Department of Defense (DOD) or Coast Guard nonappropriated fund instrumentalities (as described in 5 U.S.C. 2105(c)). Examples of employees excluded from coverage under the title 5 annual and sick leave program by an exclusion in 5 U.S.C. 6301(2) include employees with intermittent work schedules, VA employees covered by a leave system established under 38 U.S.C. 7421, DOD overseas teachers holding a teaching position as defined in 20 U.S.C. 901, and leave-exempt Presidential employees.

3. The agencies employing individuals in categories “b”, “c”, and “d” in paragraph B.1 are responsible for identifying covered employees in those categories. Where special authorities, conditions, or circumstances apply to such employees in a manner not specifically addressed in this guidance, the agency should strive to be consistent with the guidance (or underlying principles) to the extent reasonable and practicable.

C. Fund Administration

1. The \$570 million Fund is available to make leave payments to covered employees in qualifying circumstances for leave used during the qualifying period from March 11, 2021, through September 30, 2021. The Fund is also available for reasonable expenses incurred by the Office of Personnel Management in administering the section 4001 authority. The Fund remains available through September 30, 2022 (to make reimbursements to agencies for payments for leave used during the qualifying period) unless the Fund is exhausted prior to that date. If the Fund is exhausted, payments of paid leave under this authority will cease.
2. Each agency with covered employees using emergency paid leave must submit to OPM a request for reimbursement from the Fund.
 - a. An agency may not submit a request for reimbursement until the leave covered by the request has been used by the employee. An agency request must be associated with completed biweekly pay periods.

- b. An agency must submit a separate reimbursement request for each biweekly pay period. The request must identify the pay period by the pay period end date. In addition to providing the total dollar value of the conditionally granted emergency pay leave for which reimbursement is sought, the request must also include the total number of leave hours covered and the total number of employees using the covered leave.
3. Agencies must inform employees that the granting of emergency paid leave to employees who meet the eligibility conditions is tentative and conditional upon monies being available in the Fund. Before an employee is granted conditional emergency paid leave for the first time, the employee must agree in writing that, if any conditional emergency paid leave subsequently granted to the employee is not available due to exhaustion of the Fund, the employee will apply other paid leave or paid time off (as available to the employee and as appropriate for the given circumstance, including any limited amounts of administrative leave that may be granted by the agency in accordance with established principles) or will retroactively be placed on leave without pay for the affected period and voluntarily provide monetary reimbursement to the agency to cover the resulting overpayment debt. (See 5 CFR 550.1102(b). The regulatory salary offset procedures do not apply when an employee consents to recovery. However, the monetary reimbursement may be made by offsetting salary payments, since the employee will have voluntarily agreed to permit the agency that granted conditional EPL to offset Federal payments (including salary payments) to the employee to recover the amount owed. Any offset of salary payments will be limited to 15 percent of an employee's disposable pay, except in the case of a final check at the time of separation from employment.) An employee may seek to apply advanced annual or advanced sick leave (as appropriate) under the normal rules governing such advances of leave. (See paragraph F.4 and attached templates.)
4. If the Fund approaches the point where it will be exhausted, agency reimbursement requests will be processed on a first-come, first-served basis, based on the date and time OPM receives each agency reimbursement request, subject to the rules in the following paragraphs.
 - a. For the purposes of applying the first-come/first-served protocol, OPM will not consider any agency reimbursement request in connection with a given biweekly pay period to be received prior to 12:00 noon on the second Friday following the end of that pay period—regardless of the actual day and time of receipt. OPM will not process agency reimbursement requests until after this earliest-allowed-receipt point in time. (This rule considers the fact that agencies have different payroll processing timeframes.)
 - b. An agency reimbursement request (or set of agency requests with the same receipt date/time) that exhausts the Fund will result in a partial reimbursement to the agency (or agencies). The partial reimbursement will be determined applying a proration percentage derived by dividing the remaining funds available by the total dollar value of the affected agency (or agencies') reimbursement requests. In this partial reimbursement scenario, OPM will organize agency claims by

biweekly pay period. OPM will apply available funds to reimbursement claims for the earliest biweekly pay period, seeking to provide full reimbursement, until it identifies the earliest biweekly pay period for which there are insufficient funds to fully cover the reimbursement claims associated with that period. OPM will provide partial reimbursement for claims associated with that biweekly pay period and will provide no reimbursement to claims associated with any later biweekly pay period. When an agency receives a partial reimbursement, it will need to determine how to allocate available funds to cover (i.e., give final approval of) affected individual employee EPL claims that were conditionally granted. (See paragraph e.)

- c. Agency reimbursement requests must be submitted in accordance with the procedures established by OPM, and a request will not be considered to be received by OPM unless and until those procedures are established and followed.
 - d. Since reimbursement requests will be processed on a first-come, first-served basis as described in this guidance, OPM strongly encourages agencies to submit reimbursement requests on a biweekly basis, rather than hold and bundle requests covering multiple biweekly pay periods.
 - e. If an agency's reimbursement request cannot be granted due to exhaustion of the Fund, the emergency paid leave conditionally granted to an employee by the agency must be cancelled. The affected period of time will be converted to a period of leave without pay (resulting in an overpayment) unless the employee elects, in accordance with the signed Employee Agreement (see paragraph F.4 and attached template), to apply other paid leave or paid time off available to the employee (including advanced annual leave or advanced sick leave, as appropriate).
5. OPM will provide agencies with regular updates on the balance remaining in the Fund.
 6. When submitting a reimbursement claim to OPM, an authorized agency official must attest that, to the official's knowledge, the agency's established policies and procedures for implementing emergency paid leave are in compliance with section 4001 and OPM's supporting guidance.

D. Qualifying Circumstances

1. *General.* In order to use emergency paid leave, an employee must be unable to work because the employee—
 - (1) is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 - (2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 - (3) is caring for an individual who is subject to such an order or has been so advised;

- (4) is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - (5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions;
 - (6) is experiencing any other substantially similar condition (see paragraph D.8);
 - (7) is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19; or
 - (8) is obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization.
2. *Unable to work.* An employee must certify that he or she is unable to work because of a qualifying circumstance. In other words, the employee would have been scheduled to work (or be on other paid leave) but for the qualifying circumstance (see paragraph E.7, Scheduled Hours). Since the term “work” includes telework, an employee who is able to telework is considered able to work. See section F for guidance on employee notification, certification, and documentation.
 3. *Qualifying circumstance (1) – is subject to a Federal, State, or local quarantine or isolation order related to COVID-19*
 - a. The term “quarantine or isolation order” includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any Federal, State, or local government authority that cause the employee to be unable to work (including telework). This also includes when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or with certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work.
 - b. An employee is subject to “isolation” when the employee has a positive COVID-19 test result or displays COVID-19 symptoms, as described in guidance issued by the Centers for Disease Control and Prevention (CDC).
 - c. An employee is subject to “quarantine” when exposed to COVID-19, as described in CDC guidance.

4. *Qualifying circumstance (2) – has been advised by a health care provider to self-quarantine due to concerns related to COVID-19*
 - a. The term “health care provider” has the same meaning given that term in OPM FMLA regulations at 5 CFR 630.1202.
5. *Qualifying circumstance (3) – is caring for an individual who is subject to such an order or has been so advised*
 - a. The term “individual” means an employee’s family member (as defined in 5 CFR 630.201), a person who regularly resides in the employee’s home, or a similar person with whom the employee has a personal relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined. For this purpose, “individual” does not include persons with whom the employee has no personal relationship.
 - b. The individual must depend on the employee to care for him or her and the individual must meet the conditions described in qualifying circumstance (1) or (2).
6. *Qualifying circumstance (4) – is experiencing symptoms of COVID-19 and seeking a medical diagnosis*
 - a. In determining whether this circumstance applies, agencies and employees should follow the latest CDC guidance regarding COVID–19 symptoms.
 - b. Leave under this circumstance covers the time it takes an employee experiencing symptoms to obtain a medical diagnosis, as long as the employee is taking affirmative steps (i.e., actively seeking) to obtain a diagnosis as soon as possible.
7. *Qualifying circumstance (5) – is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions*
 - a. The term “son or daughter” has the meaning given that term in OPM FMLA regulations at 5 CFR 630.1202—i.e., a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability.
 - b. The term “school” means an elementary school or secondary school, except that the term does not include any education beyond grade 12.
 - c. The term “place of care” means a physical location in which care is provided for the employee’s child while the employee works for an agency. The physical location does not have to be solely dedicated to such care. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.

- d. The term “child care provider” means a provider who would normally be available to provide care of an employee’s child (including a center-based child care provider, a group home child care provider, a family child care provider, a family member, a friend or neighbor), regardless of whether the care is compensated.
 - e. This circumstance applies only when an employee needs to, and actually is, caring for the employee’s son or daughter and if the employee is unable to work (including telework) as a result of providing care.
 - f. The closure of schools or the use of virtual learning instruction models must be due to COVID-19 precautions. The nonavailability of a child care provider must be due to COVID-19 precautions.
8. *Qualifying circumstance (6) – is experiencing any other substantially similar condition*
- a. This circumstance applies only if the Director of the Office of Personnel Management approves a defined circumstance as being a “substantially similar condition” that warrants treatment as a qualifying circumstance. OPM will notify agencies of any such approval.
 - b. Agencies may not approve emergency paid leave under this qualifying circumstance prior to OPM approving a defined circumstance as being a “substantially similar condition” warranting treatment as a qualifying circumstance. Agencies must consult with OPM if they identify a possible “substantially similar condition” not already covered by the other qualifying circumstances listed in this section, and OPM will determine whether to define that circumstance as a qualifying circumstance.
 - c. An authorized agency official (headquarters level) seeking OPM consideration of a possible condition as a qualifying circumstance under this paragraph 8 should send an email to pay-leave-policy@opm.gov with the subject line: “Request for a new EPL qualifying circumstance.”
9. *Qualifying circumstance (7) – is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19*
- a. The term “family member” has the meaning given that term in OPM’s annual and sick leave regulations at 5 CFR 630.201.
 - b. The term “mental or physical disability” means a “physical or mental impairment” that “substantially limits” one or more of the “major life activities” of an individual, based on the definitions in 29 CFR 1630.2 (h), (i) and (j).
 - c. The term “incapable of self-care” means that the person requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL’s) or “instrumental activities of daily living” (IADL’s). Activities of daily living include adaptive activities such as caring appropriately for one’s grooming and hygiene, bathing, dressing, and eating. Instrumental activities of

daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc.

- d. The term “place of care” means a physical location in which care is provided for the family member while the employee works for an agency. The physical location does not have to be solely dedicated to such care.
- e. For this circumstance to apply, the family member must (1) have a mental or physical disability or be 55 years of age or older, and (2) be incapable of self-care.

10. *Qualifying circumstance (8) – is obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization*

- a. The Administration has already issued guidance on the use of administrative leave for COVID-19 vaccination purposes. (See Q&A on administrative leave issued by Safer Federal Workforce Task Force at <https://www.usa.gov/safer-federal-workforce>.) That guidance addressed administrative leave to cover time spent getting a COVID-19 vaccination, including necessary travel time; however, it did not address situations in which an employee has adverse reactions to a vaccination and needs time to recover. OPM encourages agencies to address time off related to COVID-19 vaccinations by granting administrative leave rather than emergency paid leave, as described in paragraph b. This will preserve the Fund for other qualifying uses and fully incentivize employees to get a vaccination (since there will be no loss of service credit in their retirement annuity computation if administrative leave is granted instead of emergency paid leave). Administrative leave should be granted for both time spent getting the vaccination (including necessary travel time) and also for a reasonable recovery time, subject to the limitations described in paragraph b. If an employee claims he or she needs more time to recover, the agency may make a determination to grant emergency paid leave at that point. (OPM views the granting of administrative leave for vaccination recovery periods as a special exception warranted by the severity of the COVID-19 pandemic.)
- b. Agencies should grant administrative leave for an appropriate number of hours (based on each employee’s specific situation) when an employee receives a COVID-19 vaccination dose, with consideration of both the time spent getting the vaccination and necessary travel time. An agency should grant up to 2 workdays of administrative leave if an employee has an adverse reaction to a COVID-19 vaccination dose (i.e., no more than 2 workdays of administrative leave for any adverse reactions associated with a single vaccination dose). If an agency has not previously been providing administrative leave for an employee’s recovery following a COVID-19 vaccination, it should commence providing such leave effective on March 11, 2021. If an employee claims he or she needs more than 2 workdays to recover, the agency may make a determination to grant emergency paid leave or other appropriate leave (e.g. sick leave) at that point.

E. Crediting of Leave Hours and Payments

1. *Use at employee request.* An employee may be entitled to use emergency paid leave upon request if the employee meets all conditions and requirements, as described in this guidance. An agency may not require that an employee use other available paid leave before using emergency paid leave. If an employee has more hours of qualifying circumstances than hours of emergency paid leave—due to the limitations described in paragraph 4—the employee may request *when* the emergency paid leave hours are used during the biweekly pay period, and the agency should seek to accommodate the employee’s request while also taking into account mission considerations.
2. *Relationship to other leave.* Emergency paid leave is a separate paid leave entitlement that is used in place of other paid leave or other paid time off an employee might otherwise use. It does not affect balances of other paid leave or paid time off. Emergency paid leave may not be used by an employee concurrently with any other paid leave or paid time off. However, an employee may use other types of paid leave or paid time off in the same biweekly pay period in which emergency paid leave is used, if applied to hours not covered by emergency paid leave—subject to the normal rules applicable to each type of paid leave or paid time off.
3. *Leave payment.*
 - a. Emergency paid leave is paid at the same hourly rate as annual leave.
 - b. For most employees, the hourly leave payment is equal to the employee’s hourly adjusted rate of basic pay (including any applicable locality payment, special rate supplement, or the equivalent).
 - c. For certain employees, the leave payment reflects certain additional payments such as—
 - recurring overtime/premium payments (such as standby duty premium pay and related FLSA overtime pay associated with regularly scheduled overtime hours; law enforcement availability pay; Border Patrol overtime supplements);
 - nonforeign area cost-of-living allowances and post differentials; or
 - night pay under 5 U.S.C. 5545(a), as described in paragraph d.
 - d. For employees receiving emergency paid leave, night pay under 5 U.S.C. 5545(a) for hours within an employee’s tour of duty established for leave-charging purposes is payable only as allowed under the 8-hour rule in 5 CFR 550.122(b).

NOTE: The other types of leave that are considered in applying the 8-hour rule are annual leave (including donated annual leave), sick leave, home leave, and shore leave. In applying the 8-hour rule, do not consider types of paid leave that, by law, are provided without any reduction in pay; for those types

of leave, night pay for applicable hours is always included. Thus, in applying the 8-hour rule, emergency paid leave would be combined with annual leave, sick leave, home leave, and shore leave in determining whether an employee has less than 8 hours of paid leave in a given biweekly pay period. If the employee has less than 8 hours of the specified types of leave, night pay would be included for applicable leave hours; if the employee has 8 or more leave hours, no night pay would apply for the specified types of leave.

4. *Limitations on leave hours.* The amount of emergency paid leave hours with which an employee may be credited is subject to the limitations described in this paragraph 4.
 - a. *Biweekly hours limit.* In any biweekly pay period, an employee may be credited with hours of emergency paid leave only to the extent that the total amount of the payment for such leave does not exceed—
 - \$2,800 for each full-time employee (including both regular full-time employees with an 80-hour biweekly tour of duty or employees with an uncommon tour of duty); or
 - a proportionally equivalent biweekly limit for a part-time employee (for example, \$1,400 for a part-time employee who has a 40-hour biweekly tour instead of a full-time 80-hour biweekly tour, since $40/80 \times \$2,800 = \$1,400$).

NOTE 1: For a regular full-time employee with an 80-hour biweekly tour of duty whose hourly leave payment is equal to the employee's hourly adjusted rate of basic pay, the \$2,800 biweekly limit equates to a \$35 hourly threshold ($\$2,800 / 80 \text{ hours} = \35). In other words, the crediting of emergency paid leave in a biweekly pay period will be affected by the biweekly limit if the value of the hourly leave payment would exceed \$35. Below are examples for a regular full-time employee whose hourly leave payment is equal to the employee's hourly adjusted rate of basic pay (including locality pay, special rate supplements, or the equivalent):

Example A: If the employee's hourly adjusted rate of basic pay is \$35 or less, the employee would be able to use up to 80 hours of emergency paid leave in a biweekly pay period.

Example B: If the employee's hourly adjusted rate of basic pay is \$70, the employee would be limited to 40 hours of emergency paid leave in a biweekly pay period, since \$2,800 divided by \$70 equals 40 hours. This employee could request other available leave (e.g., annual leave or, if appropriate, sick leave) to cover remaining hours.

NOTE 2: As described in paragraph 3.c, some employees receive additional pay as part of their leave payments. The total value of emergency paid leave (including such additional pay) in a biweekly pay period may not exceed the applicable biweekly limit, which will result in limiting the number of

emergency paid leave hours in a biweekly pay period that may be granted to such an employee.

Example: A criminal investigator receives 25 percent law enforcement availability pay (LEAP) as part of his leave payments. The investigator is at GS-13, step 3, and has an official worksite in Washington, DC; therefore, the criminal investigator's locality-adjusted hourly rate of basic pay is \$53.00. In the investigator's payroll system, LEAP is computed to be \$13.25 per hour of basic pay ($25\% \times \$53 = \13.25). When the investigator is on leave, the number of paid leave hours are multiplied by \$13.25 to derive the portion of the leave payment based on LEAP. The total hourly leave payment is \$66.25 ($\$53.00 + \13.25). To determine how many hours of emergency paid leave the investigator may receive in a biweekly pay period, divide \$2,800 by \$66.25, which yields 42.26 hours. Since the investigator is in a payroll system that uses quarter-hour (15-minute) increments, the investigator may receive up to 42.25 hours of emergency paid leave, if there are qualifying circumstances to support the hours.

- b. *Aggregate hours limit.* The number of aggregate hours of emergency paid leave that any employee may receive over the entire qualifying period is limited to—
 - 600 hours of paid leave for each regular full-time employee;
 - a proportionally equivalent aggregate limit for a part-time employee (for example, 300 hours for a part-time employee who has a 40-hour biweekly tour instead of a full-time 80-hour biweekly tour, since $40/80 \times 600 = 300$);
 - a proportionally equivalent aggregate limit for an employee on an uncommon tour of duty (for example, 1,080 hours for an employee with a 144-hour biweekly uncommon tour of duty, since $144/80 \times 600 = 1,080$);
 - a proportionally equivalent aggregate limit for an employee with a seasonal work schedule (taking into account the portion of the qualifying period that includes the employee's work season and the employee's biweekly tour of duty, for example, if the employee's work season includes half of the March 11 through September 30 qualifying period and if the employee has a 40-hour biweekly tour of duty, then $\frac{1}{2} \times 40/80 \times 600$ hours = 150 hours).
 - c. *Fund exhaustion.* Notwithstanding the biweekly limit in paragraph 4.a and the aggregate limit in paragraph 4.b, an employee may not be credited with emergency paid leave hours if the Fund has been exhausted.
5. *Leave increments.* Emergency paid leave is used in the same hourly increments (hours and specified fractions of an hour) as regular paid leave under the timekeeping system applicable to the employee (i.e., fraction such as 1/10th or 1/4th of an hour). In applying the limitations in paragraph 4, payment may not be made for an increment of leave if it would cause the total leave payments to exceed the applicable limitation.

6. *Part-time tour of duty.* In determining the proportional equivalent of the biweekly limit in paragraph 4.a or the aggregate limit in paragraph 4.b for a part-time employee, the part-time tour of duty is the tour of duty established for leave-charging purposes.
7. *Scheduled hours.* An employee must use emergency paid leave during scheduled hours within the employee's tour of duty established for leave-charging purposes when the employee would otherwise be working or using other paid leave.
 - a. A seasonal employee is not scheduled to work during the off-season and, thus, may not use emergency paid leave during off-season periods.
 - b. An employee who is furloughed is not scheduled to work while in furlough status and, thus, may not use emergency paid leave during furlough periods.
 - c. An employee who is suspended is not scheduled to work while in suspension status and, thus, may not use emergency paid leave during the suspension period.
 - d. An employee who is on leave without pay for service in the uniformed services ("Absent-US") is not scheduled to perform civilian work while serving in the uniformed services and, thus, may not use emergency paid leave during periods of service in the uniformed services.
 - e. An employee who is on leave without pay (LWOP) while in receipt of workers' compensation benefits is not scheduled to work during such a LWOP period and, thus, may not use emergency paid leave during any such LWOP period.
 - f. An employee who is already on LWOP under FMLA or for some other reason is not scheduled to work during such a LWOP period and thus, may not use emergency paid leave during any such LWOP period (unless the LWOP is solely due to the need to take leave because of a qualifying circumstance identified in section D).
8. *Holidays.* A holiday is a nonworkday; thus, emergency paid leave may not be used on a holiday. It also may not be used on any other nonworkday established by Federal statute, Executive order, or administrative order.
9. *Flexible work schedule.* Employees with a flexible work schedule may have fixed basic work requirement hours per day or may be allowed to elect to vary basic work requirement hours by day. In the case of a flexible work schedule under which an employee may elect to vary daily work hours, the employing agency may allow the employee to determine (within agency-established limits) the number of scheduled hours during which emergency paid leave will be used on a given day, if the agency determines the employee is entitled to emergency paid leave during the specified time periods.
10. *Change in tour of duty.* For purposes of applying the aggregate limit in paragraph 4.b, a change in an employee's biweekly tour of duty during the qualifying period for using emergency paid leave requires adjustments. The aggregate limit must be recomputed to reflect the new tour of duty. The number of emergency paid leave hours used under the previous tour of duty must be converted to the proportional equivalent hours under the new tour of duty. For example, if an employee first had a regular full-time tour of duty with a 600-hour aggregate limit, used 100 hours of emergency paid leave under that tour, and then changed to a half-time tour of duty, the new aggregate limit would be 300 hours,

and the 100 hours used under the full-time tour would be converted to 50 hours (since $300/600 \times 100$ hours = 50 hours).

NOTE: An agency may choose to track usage of emergency paid leave where usage is measured by weeks of leave used, instead of hours. For example, 600 hours for a regular full-time employee with an 80-hourly biweekly tour of duty equates to 15 weeks of leave (since $600 / (80 / 2) = 15$), and 300 hours for a part-time employee with an 40-hourly biweekly tour of duty (half-time) equates to 15 weeks (since $300 / (40 / 2) = 15$). No conversion is required in connection with a change in an employee's tour of duty if the unused balance is expressed as weeks of leave.

11. *Change in employing agency.* The biweekly limit in paragraph 4.a and the aggregate limit in paragraph 4.b are per-employee limits. For example, an employee may not use more than 600 hours in aggregate even if the employee changes agencies. Agencies must determine how many hours of emergency paid leave a newly hired or transferred employee has used under another Federal agency. (See paragraph F3c.)

NOTE: This guidance implements the emergency paid leave authority in section 4001 of the American Rescue Plan Act of 2021. As discussed in the NOTE in paragraph A.2, that Act created three other emergency paid leave authorities for FAA, TSA, and VA with separate funds. If an employee moves from a position covered by one of those other authorities to a position covered by the OPM-administered section 4001 authority, hours of emergency paid leave granted under those other authorities may not be counted towards the biweekly limit in paragraph 4.a or the aggregate limit in paragraph 4.b. Also, for VA employees who are covered by both the VA Fund (section 8008) and the OPM Fund (section 4001) (see NOTE under paragraph A.2) and for whom VA seeks reimbursement from the OPM Fund, any emergency paid leave granted under the VA authority will not be counted in applying the biweekly limit in paragraph 4.a or the aggregate limit in paragraph 4.b, since those limits apply only to emergency paid leave granted under the OPM authority.

12. *Retroactive use.* An employee may request, and an employing agency must grant, emergency paid leave for which the employee is eligible (subject to Fund availability) to cover a past period of leave without pay occurring during the qualifying period described in paragraph A.4. If an agency determines that an employee used other paid leave to cover a period of time for which emergency paid leave could have been used, an agency may allow the employee to retroactively substitute emergency paid leave for such other paid leave upon making a determination that the employee lacked information or was not allowed to use emergency paid leave at the time.

F. Employee Notification, Documentation, and Recordkeeping

1. *Requirement for employee to provide notice.*
 - a. For all qualifying circumstances except (5) and (7), an employing agency may require an employee to follow reasonable notice procedures after the first workday (or portion thereof) for which an employee takes emergency paid leave.

Whether a procedure is reasonable will be determined under the facts and circumstances of each particular case. Nothing in this section precludes an employee from offering notice to his or her agency sooner. Employees are encouraged, but not required, to notify their agency about their request for emergency paid leave as soon as practicable. If an employee fails to give proper notice, the agency should give him or her notice of the failure and an opportunity to provide the required documentation prior to denying the request for leave.

- b. For qualifying circumstances (5) and (7), an employee must provide the agency with notice of the intent to use emergency paid leave as soon as practicable, which will generally be prior to the first workday leave is used if the need for leave was foreseeable. If an employee fails to give proper notice, the employer should give him or her notice of the failure and an opportunity to provide the required documentation prior to denying the request for leave.
 - c. Generally, it will be reasonable for notice to be given by the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable or otherwise inhibited from doing so personally.
 - d. Generally, it will be reasonable for the agency to require oral notice and sufficient information for the agency to determine whether the requested leave meets the conditions for emergency paid leave.
 - e. Generally, it will be reasonable for the agency to require the employee to comply with the agency's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.
2. *Requirement for employee to provide documentation (including employee certifications).*
- a. For all requests for emergency paid leave (EPL), an employee is required to provide the employing agency with documentation containing the following information as soon as practicable, which in most cases will be when the employee provides notice under paragraph 1:
 - (1) Date(s) for which EPL is requested;
 - (2) Description of the qualifying circumstance justifying use of EPL;
 - (3) Written statement (self-certification) that the employee is unable to work (including telework) because of the cited qualifying circumstance and that the employee will meet the conditions associated with the cited qualifying circumstance during the use of EPL; and
 - (4) Written statement (self-certification) meeting the requirements described in C3 indicating that the employee understands (A) that approval of emergency paid leave is conditional upon the availability of monies in the Fund, and (B) what obligations the employee will have if the leave is cancelled due to exhaustion of the Fund. (NOTE: Agencies must have employees sign this statement before approving an employee's first use of EPL. An agency may require a separate certification in connection with

each subsequent use of EPL by the employee but is not obligated to do so.)

- b. To confirm eligibility for EPL for qualifying circumstance (1), an employee must provide to the agency the governmental quarantine or isolation order applicable to the employee.
- c. To confirm eligibility for EPL based on qualifying circumstance (2), an employee must provide to the agency the name of the health care provider who advised the employee to self-quarantine due to concerns related to COVID-19.
- d. To confirm eligibility for EPL based on qualifying circumstance (3), an employee must provide to the agency the same documentation described in paragraph b or c, as applicable.
- e. To confirm eligibility for EPL based on qualifying circumstance (4), an employee must provide to the agency a written self-certification that the employee is experiencing symptoms of COVID-19 and taking immediate steps to obtain a medical diagnosis.
- f. To confirm eligibility for EPL based on qualifying circumstance (5), an employee must provide to the agency—
 - (1) the name of the son or daughter being cared for;
 - (2) the name of the school, place of care, or child care provider and a brief description of the situation (i.e., closure, use of on-line instruction, unavailability of the child care provider); and
 - (3) a written explanation regarding why the employee’s circumstances (e.g., ages of children, number of children, special needs of children, lack of other adults in the home) make the employee unable to work (including telework) during the requested hours of leave.
- g. To confirm eligibility for EPL based on qualifying circumstance (6), an employee must provide to the agency any documentation the Director of OPM requires or recommends with respect to a particular substantially similar condition.
- h. To confirm eligibility for EPL based on qualifying circumstance (7), an employee must provide to the agency documentation as follows—
 - (1) the name of the family member with a mental or physical disability and a written certification by the employee that the identified family member has a mental or physical disability (as defined in paragraph D.9.b), if applicable;
 - (2) the name and age of the family member that is 55 years or older, if applicable;
 - (3) a written certification by the employee that the identified family member is “incapable of self-care” (as defined in paragraph D.9.c);

- (4) the name of the place of care that is closed or the direct care provider that is unavailable and a written explanation of how the closure or unavailability is due to COVID-19; and
 - (5) a written explanation regarding why the employee's care responsibilities make the employee unable to work (including telework) during the requested hours of leave.
- i. To confirm eligibility for EPL based on qualifying circumstance (8), an employee must provide to the agency a written self-certification that the leave will be (or was) used to obtain immunization related to COVID-19 or to recover from any injury, disability, illness, or condition related to such immunization.
 - j. In addition to the above generally required documentation requirements, an agency is authorized to request additional reasonable information, explanations, or certifications from an employee if the agency has reason to believe that EPL is not being used for the qualifying circumstance(s) invoked by the employee.
 - k. Once an employee has met the requirements of paragraphs a through i, as applicable, the agency may grant conditional approval of EPL. However, an agency may deny EPL based on an agency's determination that an employee's justification for the leave is not supported by the documents submitted or any other available facts. If the agency questions the validity or adequacy of the employee's justification, the employee must have an opportunity to provide documentation or further supplement his/her response to the agency before EPL is denied. An agency may conditionally approve use of EPL pending receipt of acceptable documentation and other information as required under paragraph j; however, it must ensure that the employee understands his/her obligations to resolve the overpayment of leave if the agency's final decision is to deny the leave.

3. *Recordkeeping.*

- a. An employing agency is required to retain all documentation provided by the employee for 4 years, regardless of whether leave was granted or denied. If an employee provided oral statements to support his or her request, the agency is required to document and maintain such information in its records for 4 years.
- b. Since emergency paid leave is a temporary benefit, OPM is not creating a new leave data element in its Enterprise Human Resources Integration (EHRI) database; thus, agencies will not be required to report usage of emergency paid leave as part of EHRI data reporting. OPM leaves to agencies and payroll providers the decisions regarding how to implement emergency paid leave within the parameters set by law and this guidance. OPM recognizes that, at least in the near term, agencies may need to report this paid leave under an existing leave category (e.g., administrative leave). At the same time, agencies must ensure that the biweekly and aggregate limits are applied to each employee, consistent with statutory requirements. Also, as discussed in section G, agencies must document

use of emergency paid leave on employees' Individual Retirement Records. Agencies may determine a reasonable way to comply with the various requirements.

- c. When an agency prepares a Standard Form 1150, Record of Leave Data, for a transferring employee, it should record the aggregate amount of emergency paid leave used by the employee (as of the time of transfer) in the Remarks section (block 24).
4. *Forms.* Agency forms to document employee leave requests, general certifications, and agreements must contain the same or equivalent elements found in the templates attached to this guidance. As part of documentation, employees may be required to provide additional special certifications related to the given qualifying circumstance, as provided in paragraph 2.
5. *Sensitive medical information.* Agencies must maintain records and documents relating to medical information, medical certifications, or medical histories of employees or employees' family members created for EPL purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if Americans with Disabilities Act standards apply, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

G. Effect on Retirement and Other Leave Benefits.

1. Except as provided in paragraph 2, a period during which emergency paid leave is used is creditable service for the same purposes as other paid leave. For example, periods of time covered by emergency paid leave are creditable service for purposes of determining an employee's annual leave accrual rate. Also, emergency paid leave generates basic pay that affects other payments and benefits in the same manner as other paid leave. For example, any retirement-creditable basic pay generated by emergency paid leave is subject to employee retirement deductions and agency retirement contributions.

NOTE: For some employees, leave payments may include special payments in addition to regular basic pay. Some of those special payments may be retirement-creditable basic pay (e.g., law enforcement availability pay, Border Patrol overtime supplement, standby duty premium pay, the straight-rate portion of overtime pay for hours in a firefighter's regular tour of duty under 5 U.S.C. 5545b), and some of those special payments are not retirement-creditable basic pay (e.g., night pay under 5 U.S.C. 5545(a), nonforeign area post differentials and cost-of-living allowances, the non-straight-rate portion of overtime pay for hours in a firefighter's regular tour of duty under 5 U.S.C. 5545b).

2. Any emergency paid leave provided to an employee under sections 4001, 7103, 7104, and 8008 of the Act reduces the employee's total service used to calculate any Federal civilian retirement annuity benefit (e.g., a Civil Service Retirement System (CSRS) annuity benefit computed under 5 U.S.C. 8339 or a Federal Employees' Retirement System (FERS) annuity benefit computed under 5 U.S.C. 8415).

- a. When OPM calculates an employee's retirement annuity benefit, total creditable service will be reduced by the amount of emergency paid leave used.
- b. Hours of emergency paid leave remain creditable service for purposes of (1) determining an employee's total service credit for the purpose of establishing eligibility for a retirement annuity benefit and (2) determining periods of time during which an employee has a rate of basic pay used in computing an employee's high-3 average rate of basic pay.

3. *Examples*

Example 1: If an employee retires with 30 years of service and during 2021 received 600 hours of EPL, OPM would reduce the retirement annuity calculation by the 600 EPL hours. Based on the 2087-hour chart, 600 hours of EPL converts to 3 months and 14 days. The retirement annuity calculation would be based on 29 years and 8 months.

Example 2: An employee covered by FERS retires at age 57 with 30 years of service and a high-3 average salary of \$75,000. $1\% \text{ of } \$75,000 \times 30 \text{ years of service} = \$22,500$. $\$22,500/12 = \$1,875$ monthly annuity

If the same employee received 600 EPL hours in 2021: 600 EPL hours converts to 3 months and 14 days.

30 years – 3 months 14 days = 29 years 8 months 16 days

$1\% \text{ of } \$75,000 \times 29 \text{ years and } 8 \text{ whole months } (29.666667) = \$22,250$

$\$22,250/12 = \$1,854$ monthly annuity (rounded down to the next lower whole dollar amount)

In this example, the employee would lose \$21 a month in retirement benefits for receiving 600 EPL hours.

4. For employees covered by an OPM-administered retirement system, agencies must document the employee's use of emergency paid leave and provide such documentation to the OPM Retirement Services. OPM will issue a Benefits Administration Letter (BAL), in consultation with agency human resources offices and payroll providers, that provides specific instructions for documenting employees' Individual Retirement Records. When providing a retirement estimate to an employee, the total hours of emergency paid leave should be excluded from the total service so that the employee receives an accurate estimate of the future retirement benefit. OPM's BAL will provide guidance and procedures for documenting the use of EPL so that agencies may accurately prepare retirement estimates.
5. The fact that an employee was able to use emergency paid leave instead of annual leave, resulting in an excess balance of annual leave at the end of the leave year, is not a basis for the restoration of forfeited annual leave due to an exigency of the public business under 5 U.S.C. 6304(d)(1)(B).

H. Legislation

Section 4001 of the American Rescue Plan Act of 2021 (H.R. 1319; Public Law 117-2) was enacted on March 11, 2021:

SEC. 4001. EMERGENCY FEDERAL EMPLOYEE LEAVE FUND.

(a) ESTABLISHMENT; APPROPRIATION.—There is established in the Treasury the Emergency Federal Employee Leave Fund (in this section referred to as the “Fund”), to be administered by the Director of the Office of Personnel Management, for the purposes set forth in subsection (b). In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$570,000,000, which shall be deposited into the Fund and remain available through September 30, 2022. The Fund is available for reasonable expenses incurred by the Office of Personnel Management in administering this section.

(b) PURPOSE.—Amounts in the Fund shall be available for reimbursement to an agency for the use of paid leave under this section by any employee of the agency who is unable to work because the employee—

(1) is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

(2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(3) is caring for an individual who is subject to such an order or has been so advised;

(4) is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, if the school of such son or daughter requires or makes optional a virtual learning instruction model or requires or makes optional a hybrid of in-person and virtual learning instruction models, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions;

(6) is experiencing any other substantially similar condition;

(7) is caring for a family member with a mental or physical disability or who is 55 years of age or older and incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19; or

(8) is obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization.

(c) LIMITATIONS.—

(1) PERIOD OF AVAILABILITY.—Paid leave under this section may only be provided to and used by an employee during the period beginning on the date of enactment of this Act and ending on September 30, 2021.

(2) TOTAL HOURS; AMOUNT.—Paid leave under this section—

(A) shall be provided to an employee in an amount not to exceed 600 hours of paid leave for each full-time employee, and in the case of a part-time employee, employee on an uncommon tour of duty, or employee with a seasonal work schedule, in an amount not to exceed the proportional equivalent of 600 hours to the extent amounts in the Fund remain available for reimbursement;

(B) shall be paid at the same hourly rate as other leave payments; and

(C) may not be provided to an employee if the leave would result in payments greater than \$2,800 in aggregate for any biweekly pay period for a full-time employee, or a proportionally equivalent biweekly limit for a part-time employee.

(3) RELATIONSHIP TO OTHER LEAVE.—Paid leave under this section—

(A) is in addition to any other leave provided to an employee; and

(B) may not be used by an employee concurrently with any other paid leave.

(4) CALCULATION OF RETIREMENT BENEFIT.—Any paid leave provided to an employee under this section shall reduce the total service used to calculate any Federal civilian retirement benefit.

(d) EMPLOYEE DEFINED.—In this section, the term “employee” means—

(1) an individual in the executive branch for whom annual and sick leave is provided under subchapter I of chapter 63 of title 5, United States Code;

(2) an individual employed by the United States Postal Service;

(3) an individual employed by the Postal Regulatory Commission; and

(4) an employee of the Public Defender Service for the District of Columbia and the District of Columbia Courts.

Attachments (See 508-conformant attachments at <https://www.chcoc.gov/content/covid-19-emergency-paid-leave>)

- Template: Employee Notification and Leave Request Form
- Template: Employee Agreement

COVID-19 Emergency Paid Leave (EPL) Employee Notification and Leave Request Form

Identifying Information

Employee name

Phone number (work)

Email address (work)

Name of organization (agency, office, division, branch, etc.)

EPL Qualifying Circumstance Causing the Employee to be Unable to Work

Employee is unable to work because the employee is—

- (1) Subject to COVID-19 governmental quarantine or isolation order/advisory
- (2) Advised by health care provider to self-quarantine due to COVID-19 concerns
- (3) Caring for an individual subject to (1) such order/advisory or (2) such advice
- (4) Experiencing symptoms of COVID-19 and actively seeking (i.e., taking immediate steps to obtain) a medical diagnosis
- (5) Caring for a child when required because, due to COVID-19 precautions, the child's school or place of care has been closed, or the child is participating in virtual learning instruction, or the child's care provider is unavailable
- (6) Experiencing any other substantially similar condition (as approved by OPM)
- (7) Caring for a family member (i) who has a "mental or physical disability"* or who is 55 years of age or older and (ii) who is "incapable of self-care"*, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19 (* as those terms are defined in OPM guidance)
- (8) Obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization (after using any administrative leave provided by the employing agency)

Dates	Anticipated	Actual
Date use of EPL begins		
Date use of EPL concludes		

Employee Certifications (initial each box)

- I attest that I will be using EPL to be excused from duty only during hours when I am unable to work (including telework) because an EPL qualifying circumstance applies to me.
- I understand that any EPL provided to me will reduce my total creditable service used to calculate any Federal civilian retirement annuity benefit I may receive.
- I attest that I have signed the EPL Employee Agreement and understand that the granting of EPL is conditional upon the availability of monies in the EPL Fund and that I will be obligated to take action as described in the EPL Employee Agreement to resolve any overpayment debt if conditional EPL is cancelled due to Fund exhaustion.
- I hereby certify that all statements made in this application are true and correct to the best of my knowledge and belief. I understand that a false or misleading certification may be grounds for disciplinary action, up to and including removal.

Employee's signature

Date

Additional Documentation Requirements

An employee must submit the following additional documentation in connection with each identified qualifying circumstance, as applicable:

Qualifying circumstance	Insert ✓ if completed	Nature of Documentation	Instructions
(1)		the governmental quarantine or isolation order applicable to the employee	Attach the order or provide web address here:
(2)		the name of the health care provider who advised the employee to self-quarantine due to COVID-19	Provide name here:
(3)		the governmental quarantine or isolation order applicable to the employee (if applicable)	Attach the order or provide web address here:
		the name of the health care provider who advised the individual to self-quarantine due to concerns related to COVID-19 (if applicable)	Provide name here:
(4)		<i>No generally required additional documentation.</i>	
(5)		the name of the son or daughter being cared for	Provide name here:
		the name of the school, place of care, or child care provider and a brief description of the situation (i.e., closure, use of on-line instruction, unavailability of the child care provider)	Provide information here:
		a written explanation regarding why the employee's circumstances (e.g., ages of children, number of children, special needs of children, lack of other adults in the home) make the employee unable to work during the requested hours of leave	Provide explanation here:
(6)		<i>any documentation the Director of OPM requires</i>	Follow agency instructions based on OPM guidance.
(7)		the name of the family member with a mental or physical disability (if applicable)	Provide name here:
		the name and age of the family member that is 55 years or older (if applicable)	Provide name and age here:
		the name of the place of care that is closed or the direct care provider that is unavailable due to COVID-19	Provide name here:
		a written explanation regarding why the employee's care responsibilities make the employee unable to work during the requested hours of leave	Provide explanation here:
(8)		<i>No generally required additional documentation.</i>	

NOTE: In addition to the above generally required documentation requirements, an agency is authorized to request supplemental information, explanations, or certifications from an employee if the agency has reason to believe that EPL is not being used appropriately. Once an employee has met the generally required documentation requirements described above, the agency may grant conditional approval of EPL. However, an agency may deny EPL based on an agency's determination that an employee's justification for the leave is not supported by the documents submitted or any other available facts. If the agency questions the validity or adequacy of the employee's justification, the employee must have an opportunity to provide documentation or further supplement his/her response to the agency before EPL is denied. An agency may conditionally approve use of EPL pending receipt of supplemental documentation and other information as required under the first sentence of this NOTE; however, it must ensure that the employee understands his/her obligations to resolve the overpayment of leave if the agency's final decision is to deny the leave.

Additional Information

For additional information on the rules governing EPL (including conditions and limitations), go to <https://www.chcoc.gov/content/covid-19-emergency-paid-leave>.

Note to agencies: Any agency form based on this template must include an appropriate Privacy Act Statement as required by 5 U.S.C. 552a(e)(3).

Template: Employee Agreement in Connection with Emergency Paid Leave (EPL) Provided Under Section 4001 of the American Rescue Plan of 2021

[to be signed before approval of an employee's first use of EPL]

I, *[insert employee's name]*, understand that my agency is granting EPL on a conditional basis, subject to the availability of monies in the EPL Fund. I understand that, if the EPL Fund is exhausted before my agency receives reimbursement from the Fund for any use of EPL by me, the affected conditional EPL will be cancelled, and I will be responsible for eliminating the resulting leave debt by taking one or both of the following actions:

- Requesting other paid leave or paid time off (as available to me and as appropriate for the given circumstance under normal leave rules) to substitute for the cancelled EPL—for example: annual leave (including advanced annual leave), sick leave (including advanced sick leave), compensatory time off for overtime work, compensatory time off for travel, credit hours under a flexible work schedule, and any limited amount of administrative leave that my agency may grant me.

and/or

- Voluntarily providing monetary reimbursement to the agency to satisfy the overpayment debt resulting from receiving payments for a period of time when I should have been in leave without pay status.

If I do not eliminate the leave debt by substituting other paid leave or paid time off, I agree to make the required monetary reimbursement to the agency that granted conditional EPL and to permit offset of Federal payments (including salary payments) to recover the amount owed. (Note: Any offset of salary payments will be limited to 15 percent of an employee's disposable pay, except in the case of a final check at the time of separation from employment.) However, I reserve the right to challenge the agency decision through any applicable administrative grievance procedure, negotiated grievance procedure, or judicial process and to seek return of any amounts erroneously collected from me.

Employee's Signature _____ Date: _____

Note: This employee agreement must be filed with an employee's EPL request(s).

American Rescue Plan: COVID-19 Emergency Paid Leave for Federal Employees

These Q&As should be read in conjunction with [OPM's Guidance on COVID-19 Emergency Paid Leave](#).

Overview

1. What is EPL?

EPL stands for “Emergency Paid Leave.” This is a new, temporary paid leave program established in the American Rescue Plan intended to help Federal employees who are impacted by COVID.

2. What makes EPL different from other leave programs?

Unlike other leave programs, EPL is set up as a fund. Employees will be able to request leave from their employing agencies. If the employee is eligible, the employing agency can conditionally grant this leave and submit a request for reimbursement to the agency that administers the fund.

3. Why did the American Rescue Plan create EPL?

EPL advances several important public policy goals. First, it helps provide a way for Federal employees experiencing COVID-19 symptoms or subject to quarantine or isolation orders to stay home to avoid putting others at risk. Second, it recognizes the challenges that Federal employees have faced during the COVID-19 pandemic with caring for children, elderly family members, and family members with disabilities—when their normal school, childcare, and caregiving options are not available because of COVID. Third, to the extent that agencies do not provide administrative leave for COVID vaccination purposes, EPL is available to cover periods of time when an employee is getting vaccinated, thereby facilitating employees in obtaining COVID vaccines.

4. What does it mean for EPL to be a “temporary” leave program?

EPL is available until September 30, 2021, unless the applicable fund is exhausted before then.

5. Are all federal employees covered by the same fund?

No. The ARP created four distinct funds. OPM administers a \$570 million fund that covers most of the Federal government. There are separate funds for TSA, FAA, and VA employees, who are covered by other leave systems not administered by OPM. Employees of these agencies should direct questions about how to access their funds to their agency.

For Employees Covered by the OPM Administered Fund

Below are FAQs to help employees understand how to access EPL.

6. When did EPL become available?

Federal employees became eligible for EPL when the American Rescue Plan was signed into law on March 11, 2021. EPL may not be used for periods of time before March 11, 2021.

7. Under what circumstances may an employee use EPL?

If an employee is covered by the EPL fund, the employee may use EPL if unable to work because the employee is:

- (1) Subject to COVID-19 governmental quarantine or isolation order/advisory;
- (2) Self-quarantining due to COVID-19 concerns on the advice of a health care provider;
- (3) Caring for an individual subject to (1) such order/advisory or (2) such advice;
- (4) Experiencing symptoms of COVID-19 and actively seeking (i.e., taking immediate steps to obtain) a medical diagnosis;
- (5) Caring for a child when required because, due to COVID-19 precautions, the child's school or place of care has been closed, or the child is participating in virtual learning instruction, or the child's care provider is unavailable;
- (6) Experiencing any other substantially similar condition (as approved by OPM);
- (7) Caring for a family member (i) who has a mental or physical disability or who is 55 years of age or older and (ii) who is incapable of self-care, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19; and/or
- (8) Obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization (after using any administrative leave provided by the employing agency).

8. What is the maximum amount of leave can Federal employees receive under EPL?

Full-time employees experiencing qualifying circumstances can receive a maximum of 600 hours (15 weeks) of EPL. For part-time employees, the total hours are prorated based on the employee's tour of duty, e.g., a half-time employee can get up to 300 hours.

9. How much are Federal employees paid under EPL?

Federal employees will receive the same pay for EPL hours they would receive if they were on annual leave.

10. Is there limit on how many hours of EPL an employee can use in a biweekly pay period?

Yes, there is a biweekly limit. An employee may be granted EPL hours only to the extent that the value of those EPL hours in a biweekly pay period does not exceed \$2,800 for a full-time employee or an equivalent limit for a part-time employee (e.g., \$1,400 for a half-time employee).

11. An employee previously submitted a leave request and now wants to change it to EPL. What should they do?

Employees can ask their agency to retroactively convert other categories of leave they may have taken to EPL, if they meet the eligibility requirements.

12. How do employees put in a claim in for EPL?

Each agency will provide employees with a form (modeled after an OPM template) to request EPL. Employees should check with their human resources office on the procedures for claiming EPL.

13. What does it mean that EPL is approved “conditionally?”

EPL is available until September 30, unless the \$570 million fund is exhausted before then. If the fund becomes exhausted, any EPL that was conditionally approved and cannot be paid for out of the fund will have to be canceled, and other leave substituted for it.

14. Should employees take EPL or administrative leave to get their vaccine?

OPM has encouraged agencies to offer up to four hours of administrative leave per dose to cover time spent getting a vaccine dose, plus additional time if reasonably necessary, instead of having employees use EPL. This will maximize the availability of EPL for other circumstances that might affect an employee.

15. What is the impact of EPL on an employee’s retirement?

The law provides that an employee’s total service used in computing their retirement annuity must be reduced by the amount of EPL used. EPL is treated like other paid leave for all other retirement purposes. For example, EPL time is creditable service for establishing annuity entitlement, computing the [high-3 average salary](#), and applying retirement deductions and agency contributions.

16. What documentation will an employee need to provide to their employing agency?

Documentation requirements vary depending on the qualifying circumstance. The leave request form will describe generally required documentation. Employees will need to make certain certifications and may need to provide explanations in certain circumstances. An agency may request supplemental information, explanations, or certifications, if it believes it is necessary.

For Agencies

Below are FAQs that agencies covered by the OPM leave fund can use to understand how to grant leave and access reimbursement.

17. How do agencies submit a claim for EPL reimbursement to OPM?

Agencies should follow the instructions contained in OPM’s Benefits Administration Letter (BAL) 21-303. (<https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/>.)

18. How long will it take agencies to get reimbursed by OPM from the fund?

OPM will make every attempt to process agency reimbursement requests promptly, but we cannot provide a guarantee on the timing of payments.

19. How should agencies handle employees’ retroactive claims for EPL?

Please ask employees to submit any retroactive claims for EPL as soon as possible and submit them to OPM right away so that we can accurately track expenditures against the fund.

20. How will agencies know when the fund is exhausted?

OPM will be monitoring the fund on a regular basis and will notify agencies as it gets close to exhaustion. Agencies can also monitor a dashboard that will be set up at <https://www.opm.gov/policy-data-oversight/pay-leave/ARPA> to track overall fund usage. This dashboard will reflect data reported to OPM by agencies through the reimbursement process.

21. How will OPM prioritize agency reimbursement requests if the fund is exhausted?

OPM will be processing agency reimbursement requests on a first-come/first-served basis based on the date/time of receipt by OPM. (See OPM guidance for details.) An agency reimbursement request (or set of agency requests with the same receipt date/time) that exhausts the Fund will result in a partial reimbursement to the agency (or agencies) under rules established by OPM. When an agency receives a partial reimbursement, it will need to determine how to allocate available funds to cover (i.e., give final approval of) affected individual employee EPL claims that were conditionally granted.

DOUG A. TULINO
CHIEF HUMAN RESOURCES OFFICER
AND EXECUTIVE VICE PRESIDENT



April 30, 2021

OFFICERS

SUBJECT: Required Office of Personnel Management Documentation for Emergency Federal Employee Leave

The Office of Personnel Management (OPM) has issued guidance to implement use of Emergency Federal Employee Leave (EFEL) under the American Rescue Plan Act (ARPA).

Effective immediately, employees requesting EFEL must provide the following information:

1. A completed PS Form 3971, Request for or Notification of Absence;
2. COVID-19 Emergency Federal Employee Leave (EFEL) Employee Notification and Leave Request Form (Employee Notification and Leave Request Form) and all documentation required by the specific qualifying circumstance (as indicated on the Request Form); and 5
3. A signed Employee Agreement in Connection with Emergency Federal Employee Leave (EFEL) Provided Under Section 4001 of the American Rescue Plan Act of 2021 (Employee Agreement). The Employee Agreement is required for only the first use of EFEL.

The Employee Notification and Leave Request Form requires employees identify the following information; qualifying circumstance(s) that render the employee unable to work, date(s) of EFEL usage, and the additional documentation requirements for each qualifying circumstance. There are also four (4) Employee Certifications that the employee must initial. In addition to signing and dating the Employee Notification and Leave Request Form, the employee must attach a copy of the Employee Notification and Leave Request Form to the Employee Agreement and provide all required forms and information to his or her supervisor.

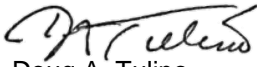
The Employee Agreement indicates that approval of EFEL is conditional and subject to the availability of EFEL funds.

All employees who were conditionally approved for EFEL leave under the Postal Service's interim policy, which started on March 11, 2021, must complete an Employee Notification and Leave Request Form, supply additional related documentation, and complete the Employee Agreement retroactively for the EFEL that was previously approved. This information must be submitted to their respective supervisor within ten (10) days of receiving these forms. Failure to provide these completed, signed forms will result in a denial of EFEL. In such cases, the employee's EFEL will be converted to leave without pay (LWOP) and the employee will be liable for repayment of the EFEL taken or the employee may elect to convert the EFEL used to another applicable, paid type of accrued leave.

Management is responsible for distributing the forms to all employees who have utilized EFEL.

The completed Employee Notification and Leave Request Form, completed Employee Agreement and supporting documentation must be maintained on file by the local timekeepers for a period of at least four (4) years. If an Employee Notification and Leave Request Form contains medical information, retain it and the Employee Agreement in the employee's medical folder (EMF).

Next week we will be providing a standup talk and other communications on EFEL to management and employees. This material will also be available on the COVID-19 website on blue and liteblue. Copies of the Employee Notification and Leave Request Form and Employee Agreement are attached for reference. Questions regarding this matter should be directed to district Human Resource offices.



Doug A. Tulino

Attachments

COVID-19 Emergency Federal Employee Leave (EFEL) Employee Notification and Leave Request Form

Note: Employee must also submit completed PS 3971 and Employee Agreement.

Privacy Act Statement: Your information will be used to administer leave. Collection is authorized by 39 USC 401, 404, 1001, 1003, and 1005; and 29 USC 2601 et seq. Supplying the information is voluntary, but if not provided, we may not be able to process your leave request. We do not disclose your information to third parties without your consent, except to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to agents or contactors when necessary to fulfill a business function; to a U.S. Postal Service auditor; for law enforcement purposes, to labor organizations as required by applicable law; incident to legal proceedings involving the Postal Service; to government agencies in connection with decisions as necessary; to the Equal Employment Opportunity Commission when requested in connection with the investigation of a formal complaint; and to the Merit Systems Protection Board or Office of Special Counsel for the purpose of litigation. For more information regarding our privacy policies visit www.usps.com/privacypolicy.

Identifying Information

Employee name

Name of organization (agency, office, division, branch, etc.)

EFEL Qualifying Circumstance Causing the Employee to be Unable to Work

Employee is unable to work because the employee is—

- (1) Subject to COVID-19 governmental quarantine or isolation order/advisory.
- (2) Advised by health care provider to self-quarantine due to COVID-19 concerns.
- (3) Caring for an individual* subject to (1) such order/advisory or (2) such advice (*as that term is defined in OPM guidance).
- (4) Experiencing symptoms of COVID-19 and actively seeking (i.e., taking immediate steps to obtain) a medical diagnosis.
- (5) Caring for a child when required because, due to COVID-19 precautions, the child’s school or place of care has been closed, or the child is participating in virtual learning instruction, or the child’s care provider is unavailable.
- (6) Experiencing any other substantially similar condition (as approved by OPM).
- (7) Caring for a family member (i) who has a “mental or physical disability”* or who is 55 years of age or older and (ii) who is “incapable of self-care”*, without regard to whether another individual other than the employee is available to care for such family member, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19 (*as those terms are defined in OPM guidance).
- (8) Obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization (after using any administrative leave provided by the employing agency).

Dates	Anticipated	Actual
Date use of EFEL begins		
Date use of EFEL concludes		

Employee Certifications (initial each box)

- I attest that I will be using EFEL to be excused from duty only during hours when I am unable to work (including telework) because an EFEL qualifying circumstance applies to me.
- I understand that any EFEL provided to me will reduce my total creditable service used to calculate any Federal civilian retirement annuity benefit I may receive.
- I attest that I have signed the EFEL Employee Agreement and understand that the granting of EFEL is conditional upon the availability of monies in the EFEL Fund and that I will be obligated to take action as described in the EFEL Employee Agreement to resolve any overpayment debt if conditional EFEL is cancelled due to Fund exhaustion.
- I hereby certify that all statements made in this application are true and correct to the best of my knowledge and belief. I understand that a false certification may be grounds for disciplinary action, up to and including removal.

Employee's signature	Date
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Additional Documentation Requirements

An employee must submit the following additional documentation in connection with each identified qualifying circumstance, as applicable:

Qualifying circumstance	Insert ✓ if completed	Nature of Documentation	Instructions
(1)		the governmental quarantine or isolation order applicable to the employee	Attach the order or provide web address here:
(2)		the name of the health care provider who advised the employee to self-quarantine due to COVID-19	Provide name here:
(3)		the governmental quarantine or isolation order applicable to the individual (if applicable)	Attach the order or provide web address here:
		the name of the health care provider who advised the individual to self-quarantine due to concerns related to COVID-19 (if applicable)	Provide name here:
(4)		<i>No generally required additional documentation.</i>	
(5)		the name of the son or daughter being cared for	Provide name here:
		the name of the school, place of care, or child care provider and a brief description of the situation (i.e., closure, use of on-line instruction, unavailability of the child care provider)	Provide information here:
		a written explanation regarding why the employee's circumstances (e.g., ages of children, number of children, special needs of children, lack of other adults in the home) make the employee unable to work during the requested hours of leave	Provide explanation here:
(6)		<i>any documentation the Director of OPM requires</i>	Follow agency instructions based on OPM guidance.
(7)		the name of the family member with a mental or physical disability (if applicable)	Provide name here:
		the name and age of the family member that is 55 years or older (if applicable)	Provide name and age here:
		the name of the place of care that is closed or the direct care provider that is unavailable due to COVID-19	Provide name here:
		a written explanation regarding why the employee's care responsibilities make the employee unable to work during the requested hours of leave	Provide explanation here:

(8)		<i>No generally required additional documentation.</i>	
<p>NOTE: In addition to the above generally required documentation requirements, an agency is authorized to request supplemental information, explanations, or certifications from an employee if the agency has reason to believe that EFEL is not being used appropriately. Once an employee has met the generally required documentation requirements described above, the agency may grant conditional approval of EFEL. However, an agency may deny EFEL based on an agency's determination that an employee's justification for the leave is not supported by the documents submitted or any other available facts. If the agency questions the validity or adequacy of the employee's justification, the employee must have an opportunity to provide documentation or further supplement his/her response to the agency before EFEL is denied. An agency may conditionally approve use of EFEL pending receipt of supplemental documentation and other information as required under the first sentence of this NOTE; however, it must ensure that the employee understands his/her obligations to resolve the overpayment of leave if the agency's final decision is to deny the leave.</p>			

Additional Information

If the EFEL request contains medical information, put this request form and the Employee Agreement in the Employee Medical Folder (EMF).

For additional information on the rules governing EFEL (including conditions and limitations), go to <https://www.chcoc.gov/content/covid-19-emergency-paid-leave>.

**Employee Agreement in Connection with Emergency Federal Employee Leave (EFEL)
Provided Under Section 4001 of the American Rescue Plan Act of 2021**

[to be signed before approval of an employee's first use of EFEL]

I, _____, understand that my agency is granting EFEL on a conditional basis, subject to the availability of monies in the EFEL Fund. I understand that, if the EFEL Fund is exhausted before my agency receives reimbursement from the Fund for any use of EFEL by me, the affected conditional EFEL will be cancelled, and I will be responsible for eliminating the resulting leave debt by taking one or both of the following actions:

- Requesting other paid leave or paid time off (as available to me and as appropriate for the given circumstance under normal leave rules) to substitute for the cancelled EFEL.

AND/OR

- Voluntarily providing monetary reimbursement to the agency to satisfy the overpayment debt resulting from receiving payments for a period of time when I should have been in leave without pay (LWOP) status.

If I do not eliminate the leave debt by substituting other paid leave, I agree to make the required monetary reimbursement to the agency that granted conditional EFEL and to permit offset of Federal payments (including salary payments) to recover the amount owed. (Note: Any offset of salary payments will be limited to 15 percent of an employee's disposable pay, except in the case of a final check at the time of separation from employment.) However, I reserve the right to challenge the agency decision through any applicable administrative grievance procedure, negotiated grievance procedure, or judicial process and to seek return of any amounts erroneously collected from me.

Employee's Signature _____ Date: _____

Note: This employee agreement must be filed with an employee's EFEL request(s). If the EFEL request(s) contains medical information, put the request form(s) and this agreement in the Employee Medical Folder (EMF).