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LABOR RELATIONS



May 10, 2021

Mr. Brian J. Wagner
President
National Association of Postal
Supervisors
1727 King Street, Suite 400
Alexandria, VA 22314-2753

Dear Mr. Wagner:

This is in further reference to our previous correspondence concerning implementation of Emergency Federal Employee Leave (EFEL) under the American Rescue Plan Act.

The Postal Service has created a document entitled, "Emergency Federal Employee Leave (EFEL) – Questions and Answers (Q&As)," a copy of which is enclosed. This document is also available on LiteBlue under the "Coronavirus Employee Resources" tab.

Please contact Bruce Nicholson at extension 7773 if you have questions concerning this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "David E. Mills", with a stylized flourish extending to the right.

David E. Mills
Manager
Labor Relations Policies and Programs

Enclosure

Emergency Federal Employee Leave (EFEL)

Questions and Answers (Q&As)

Note: The Postal Service has compiled these Q&As to assist postal employees in understanding EFEL. However, the Office of Personnel Management (OPM) is responsible for the administration of this leave type, so OPM's requirements regarding EFEL generally control. Employees can find OPM's resources on EFEL (called EPL by OPM) [here](#).

I. General Information and Eligibility

1. What new leave benefits were created by the American Rescue Plan Act (ARPA)?

The ARPA created a new type of leave for postal employees impacted by the COVID-19 pandemic. The leave consists of up to 600 hours of EFEL for full-time employees (with proportional amounts for other employees) for qualifying COVID-19-related reasons.

2. When will EFEL be available for me to use?

EFEL is available for covered leave taken beginning March 11, 2021 and is expected to continue through September 30, 2021, but availability could end earlier based on notice from OPM that there are no more funds for reimbursement. Under the ARPA, EFEL is available only if there are funds available to reimburse the Postal Service for use of the leave.

3. I used EFEL before the Postal Service implemented OPM's finalized guidance. What do I need to do now that the guidance is final?

You must complete and provide to your supervisor: (1) an Employee Agreement for EFEL; (2) an EFEL Employee Notification and Leave Request Form; and (3) all appropriate supporting documentation based on your qualifying reason(s) for using EFEL. If you do not timely provide the required forms and documentation to your supervisor, your EFEL will be converted to another appropriate leave category at your election or to leave without pay (LWOP) if you so elect or do not make an election. A conversion to LWOP will create a debt owed by you to the Postal Service.

You can find additional information about the required forms and documentation below under "Requesting EFEL."

4. I have taken leave in the past related to COVID-19. Can I use EFEL retroactively to cover that prior leave?

EFEL is not available for leave taken before March 11, 2021, even if it was related to COVID-19. Any leave taken prior to that date remains subject to the rules in place at that time. However, if you took leave for an EFEL qualifying reason on or after March 11, 2021, you may be able to get it converted to EFEL retroactively.

5. I took leave prior to March 11, 2021 for a reason related to COVID-19. Does that mean I have used some of my available EFEL?

No. EFEL only became available on March 11, 2021. Any leave taken before that, even if related to COVID-19, does not count against your EFEL entitlement. This includes leave taken under the Families First Coronavirus Response Act (FFCRA). Additionally, leave is only charged as EFEL if requested by an eligible employee and supported by the appropriate documentation.

6. For how long must I have been employed with the Postal Service to be eligible for EFEL?

All employees, regardless of tenure, are immediately eligible for EFEL if they have a qualifying reason (discussed below) to take

such leave.

7. I am a non-career employee; do I have access to EFEL?

Yes, EFEL is available for all postal employees who meet the requirements.

8. Are part-time employees eligible to receive EFEL?

Yes, EFEL is available for all postal employees who meet the requirements. However, part-time employees are only eligible for a maximum amount EFEL that is the proportional equivalent of 600 hours based on their regular work schedules, not to exceed 600 hours. More information about the amount of EFEL hours part-time employees are permitted to take is provided below.

9. For what circumstances is EFEL available to employees?

EFEL is available if an employee is unable to work (including telework) because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. (Note: The Postal Service provides an essential federal government service as part of the nation's critical infrastructure. Therefore, postal employees are generally not subject to general Federal, State, or local quarantine or isolation orders related to COVID-19, except for the specific circumstances related to guidance from the Centers for Disease Control and Prevention (CDC) noted below.)
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 as in (1) or has been so advised as in (2).
4. is experiencing COVID-19 symptoms and seeking a medical diagnosis.
5. is caring for the employee's son or daughter if the school or place of care of the son or daughter has been closed, requires or makes optional a virtual learning instruction model, requires or makes optional a hybrid of in-person and virtual learning instruction models, or if the child care provider of the son or daughter is unavailable, due to COVID-19 precautions.
6. is experiencing any other substantially similar condition. (Note: OPM must identify a condition as substantially similar for it to qualify under this reason. No condition has been identified as substantially similar at this time, so employees are currently not able to use EFEL for qualifying reason 6.)
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.
8. is obtaining immunization (vaccination) related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization. (Note: Nonbargaining exempt employees should generally be able to use personal leave under ELM 519.7, not EFEL, to receive a COVID-19 vaccination during work hours, unless a full day's absence is required for the purpose of being vaccinated.)

10. Is EFEL full paid leave?

Yes, but the number of hours an individual employee may take in a single pay period depends on that employee's rate of pay. The ARPA caps the EFEL-related compensation an employee may receive in a single pay period at \$2,800.

11. How much EFEL can I take?

Employees must use EFEL in the same increments in which they are able to use annual leave. (See ELM 512.511.) This means nonbargaining exempt employees must use full days of EFEL (8 hours) when eligible unless approved for personal leave consistent with ELM 519.7 or question IV.10 regarding vaccination appointments as noted below.

Full-time employees are eligible for up to 600 hours of EFEL.

Non-Traditional Full Time Employees (NTFTs) may receive a proportional equivalent that exceeds 600 hours total depending on

their scheduled tours.

If you are a Part-time Regular employee with a normal weekly schedule, you are entitled to, on a weekly basis, EFEL in an amount equivalent to your normal weekly schedule. You are entitled to a total EFEL amount of up to 15 times the number of hours you are normally scheduled to work per week but not greater than 600 hours.

If you are a Part-time Flexible or noncareer employee with a variable schedule such that it is not possible to determine your normal weekly hours, you are entitled to EFEL based on the average number of hours you worked per week over the 13 pay periods prior to using EFEL (including any hours for which you took leave of any type). If you are a Part-time Flexible or noncareer employee who has worked for fewer than six months, you are entitled to EFEL based on the average number of hours you worked per week over the duration of your employment (including any hours for which you took leave of any type).

The ARPA also imposes a \$2,800 compensation cap for EFEL per pay period for full-time employees and a lower proportional compensation cap for part-time employees based on a part-time employee's average hours per pay period. Relevant compensation includes any applicable TCOLA, Geographic Pay, LEAP, Locality, and AUO premiums. No employee may exceed this \$2,800 cap for EFEL use in a single pay period, including NTFTs.

Therefore, full-time employees who usually earn more than \$2,800 per pay period (and part-time employees who usually earn more than their proportional compensation cap) cannot take a full pay period of EFEL. The amount of EFEL available to such an employee each pay period depends on the employee's rate of pay. An employee may take only as many hours of EFEL in a pay period as will result in compensation of \$2,800 or less for the EFEL hours based on the employee's hourly rate of pay. Employees who reach the cap in a pay period but require additional leave must take leave in accordance with other existing postal leave policies and procedures.

To determine the number of hours of EFEL you may take in a single pay period, divide \$2,800 by your hourly rate of pay, including any applicable TCOLA, geographic pay, LEAP, locality pay, and AUO premiums. For example, a full-time employee with a salary of \$100,000 earns roughly \$48/hour and would reach the \$2,800 cap after 58.24 hours of EFEL in a single pay period. Therefore, while that employee may take up to 600 hours of EFEL in total, in a single pay period, the employee may take only 58 hours of EFEL.

12. I changed positions and have a new biweekly tour of duty (i.e., more or fewer scheduled hours per pay period). How does this change the maximum number of EFEL hours available to me?

In this situation, the aggregate limit of your EFEL hours must be recalculated to reflect the new tour of duty. The number of EFEL hours used under the previous tour of duty is 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 (i.e., 20 hours/week), 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 $300/600 \times 100 \text{ hours} = 50 \text{ hours}$).

13. I am not scheduled to work or be on paid leave (e.g., I am on FMLA leave, on military LWOP, suspended, out pending removal, on LWOP receiving workers' compensation, etc.). I also believe I meet one of the qualifying circumstances. Can I take EFEL?

No. You must be unable to work **because of** the qualifying reason. Unless you would otherwise be working or on a form of paid leave, you do not meet this requirement and cannot take EFEL.

14. I am in a position that is eligible for telework. Does that mean I cannot use EFEL?

Not necessarily. To use EFEL, you must be unable to work, including telework, due to a qualifying reason. If you are unable to telework as a result of a qualifying reason despite being in a position eligible for telework, you may be able to use EFEL.

15. Does any health care provider count for qualifying reasons 2 and 4?

No. With limited exceptions, the health care provider must be a doctor (Medical Doctor or a Doctor of Osteopathic Medicine). Supervisors should contact District Human Resources and/or the Law Department if they are not sure an employee's health care provider qualifies.

16. Does caring for an individual under qualifying reason 3 include anyone?

No. An individual must be an employee's family member, 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. The individual must depend on the employee to care for him or her and the individual must meet the conditions described in qualifying reason 1 or 2.

17. Who counts as a family member for qualifying reason 7?

- a. Spouse, and parents thereof;
- b. Children, and spouses thereof;
- c. Parents, and spouses thereof;
- d. Brothers and sisters, and spouses thereof;
- e. Grandparents and grandchildren, and spouses thereof;
- f. Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (2) through (5) of this definition; and
- g. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

18. What does "incapable of self-care" mean for qualifying reason 7?

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" (ADLs) or "instrumental activities of daily living" (IADLs). ADLs include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. IADLs include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc.

19. Can I use EFEL to take a family member to receive a COVID-19 vaccination?

No, reason 8 is only available when the employee is the one being vaccinated or experiencing adverse reactions to a COVID-19 vaccine.

20. Who should I call if I have questions regarding EFEL?

If you have additional questions, please contact your supervisor or manager. Supervisors and managers with questions should contact District Human Resources.

21. Where can I go to view more information regarding EFEL?

Additional details about the ARPA's provisions and other COVID-19-related information can be found on the special COVID-19 pages of our internal website, Blue, and our employee website, LiteBlue. Additionally, OPM has information on EFEL (called EPL by OPM) [here](#).

II. Impacts of Using EFEL

1. Does EFEL reduce my current accrued postal leave balances?

No, EFEL is in addition to any other types of leave available to postal employees.

2. Will I continue to accrue my earned annual/sick leave if I EFEL?

Yes, you will continue to accrue annual and sick leave while on EFEL.

3. Does using EFEL have any effect on my retirement?

Yes. Hours of EFEL will be excluded from your total service used to determine your annuity for any Federal civilian retirement benefit (e.g., CSRS or FERS).

However, EFEL does not impact your eligibility to retire or your high-three. It only impacts your annuity. EFEL hours remain creditable service to (1) establish employee eligibility for a retirement annuity benefit and (2) determine when an employee had a rate of basic pay used to compute an employee's high-three average rate of basic pay.

4. Will my TSP and retirement contributions continue while I am on EFEL?

Yes. Deductions for TSP and retirement will still be made from your earnings while you are on EFEL. EFEL payments generate retirement-creditable basic pay in the same manner as annual leave, and any EFEL-generated basic pay is subject to retirement deductions and contributions.

5. I used EFEL, and as a result, my annual leave balance will exceed the maximum carryover limit. Can I get the amount of annual leave that would be forfeited restored?

No. Use of EFEL does not create an exception to the carryover limit and is not a basis for restoration of forfeited annual leave.

III. Requesting EFEL

1. How do I request EFEL?

You need to submit three forms as well as any necessary supporting documentation to take EFEL.

- Submit a completed PS Form 3971 "Request for or Notification of Absence" to your supervisor. Check "Other" as the "Type of Absence" and write "EFEL" on the line. Indicate "Emergency Federal Employee Leave" and your qualifying reason for leave (1 – 8, as listed below) in the "Remarks" box on the form.
- Submit a completed "COVID-19 Emergency Federal Employee Leave (EFEL) Employee Notification and Leave Request Form." Include office/facility name in the "Name of Organization" field.
- Submit a signed and dated "Employee Agreement in Connection with Emergency Federal Employee Leave Provided Under Section 4001 of the American Rescue Plan Act of 2021."
- If not provided on the "COVID-19 Emergency Federal Employee Leave (EFEL) Employee Notification and Leave Request Form," submit the required supporting documentation associated with your qualifying reason for EFEL.

All forms and supporting documentation must be clear and legible. Providing false information in requesting EFEL may be grounds for disciplinary action, up to and including removal.

2. What additional documentation is generally required for each qualifying reason?

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
 - A copy of the relevant COVID-19 quarantine or isolation order or a web address for it.
2. Advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
 - The name of the healthcare provider who advised you to self-quarantine due to COVID-19.
3. Caring for an individual who is subject to such an order as in (1) or has been so advised as in (2).
 - A copy of the relevant COVID-19 quarantine or isolation order or a web address for it; or

- The name of the healthcare provider who advised the individual to self-quarantine due to concerns related to COVID-19.
4. Experiencing COVID-19 symptoms and seeking a medical diagnosis.
 - None. By submitting your request under this reason, you are certifying that you are experiencing symptoms of COVID-19 **and** taking immediate steps to obtain a medical diagnosis.
 5. Caring for your son or daughter if the school or place of care of the son or daughter has been closed, requires or makes optional a virtual learning instruction model, requires or makes optional a hybrid of in-person and virtual learning instruction models, or if the childcare provider of the son or daughter is unavailable, due to COVID-19 precautions.
 - The name of the son or daughter being cared for;
 - The name of the school, place of care, or childcare provider that meets the required conditions;
 - A written description of the situation (i.e., closure, use of on-line instruction, unavailability of the childcare provider); and
 - A written explanation regarding why your circumstances (e.g., ages of children, number of children, special needs of children, lack of other adults in the home) make you unable to work (including telework) during the requested hours of leave.
 6. Experiencing any other substantially similar condition
 - Any documentation the Director of OPM requires if such a condition is designated as substantially similar.
 7. 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 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.
 - The name of the family member with a mental or physical disability, if applicable;
 - The name and age of the family member that is 55 years old or older, if applicable;
 - The name of the place of care that is closed or the direct care provider that is unavailable due to COVID-19; and
 - A written explanation regarding why your care responsibilities make you unable to work (including telework) during the requested hours of leave.
 8. Obtaining immunization (vaccination) related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization.
 - None. By submitting your request for leave with this qualifying reason, you are certifying that the leave is necessary to obtain immunization related to COVID-19 or to recover from any injury, disability, illness, or condition related to such immunization.

The EFEL Employee Notification and Leave Request Form on which employees will supply this information requires employees to certify to the truth of their statements in requesting EFEL. Providing false information may be grounds for disciplinary action, up to and including removal.

In addition to the above documentation requirements, the Postal Service may require additional information, explanations, or certifications from an employee if they have a reasonable basis to believe that EFEL is not being used appropriately. Supervisors are required to consult with Labor Relations and/or the Law Department prior to requesting such additional information.

3. How do I complete my 3971 for EFEL?

Check "Other" as the "Type of Absence" and write "EFEL" on the line. Indicate "Emergency Federal Employee Leave" and your qualifying reason for leave (1 – 8, as listed above) in the "Remarks" box on the form. Include office/facility name in the "Name of Organization" field.

You must also provide all other forms and documentation required.

4. Can I call into the IVR leave line or use the Enterprise Leave Request Application (eLRA) to request the new leave?

No. To request EFEL, you must submit a request to your supervisor or manager along with the necessary forms and documentation.

5. Do I have to use EFEL all at once?

No, there is no requirement to use EFEL in only a single block. For example, an employee caring for a son or daughter whose school is using a hybrid learning model due to COVID-19 can take EFEL on the days the child learns remotely and the employee needs to provide care. Similarly, an employee may use some EFEL as a result of having COVID-19 symptoms and seeking a medical diagnosis and then later need to use EFEL after being ordered to quarantine by a health care provider.

6. May I use EFEL intermittently?

Yes, but depending on the reason, you may not be able to report to a postal worksite on the days for which you do not take EFEL. For example, if you are ordered to quarantine as a result of exposure to COVID-19, you would not be able to report to a postal worksite during your quarantine period whether or not you used EFEL. An employee is permitted to use a different applicable leave type in lieu of EFEL.

Employees are always able to use remaining available EFEL when a new qualifying reason occurs. Remember that EFEL is only available for the qualifying reasons to the extent the reason causes an employee to be unable to work (including telework). Note, for example, that each day of school closure or care provider unavailability is a separate reason for leave; such use would not be considered intermittent. Similarly, a telework-eligible employee with COVID-19 symptoms would only qualify for EFEL when his or her symptoms are so severe that the employee cannot telework—even if those days are not consecutive.

IV. Situational Questions

1. There is a general stay-at-home order where I live. Can I take EFEL based on qualifying reason 1?

No. Because the Postal Service provides an essential federal government service as part of the nation's critical infrastructure, postal employees are generally not subject to Federal, State, or local quarantine or isolation orders related to COVID-19.

2. Which qualifying reason should I use for EFEL after I have tested positive for COVID-19?

If you have been ordered to isolate or quarantine by a health care provider as a result of your positive test result, you should use qualifying reason 2 for the duration of your order to isolate or quarantine.

If you have tested positive for COVID-19 but have not been ordered to isolate or quarantine by a health care provider, you should use qualifying reason 1 if you fall under the Centers for Disease Control and Prevention's isolation guidelines found [here](#).

As of April 27, 2021, individuals who tested positive for COVID-19 no longer need to isolate after:

- 10 days since symptoms first appeared, **and**
- 24 hours with no fever without the use of fever-reducing medications, **and**
- Other symptoms of COVID-19 are improving.*

** Loss of taste and smell may persist for weeks or months after recovery and do not delay the end of isolation.*

3. I was identified as someone exposed to COVID-19 through external contact tracing or because someone in my household tested positive for COVID-19. Do I qualify for EFEL?

It depends. If a public health official has ordered you to quarantine, you would qualify for EFEL for the ordered quarantine period. Similarly, if based on your exposure, you meet CDC's guidance for when to quarantine, you would qualify for the quarantine period consistent with that guidance. Otherwise, you would not qualify for EFEL.

4. I was identified as someone exposed to COVID-19 through the Postal Service's contact tracing program and ordered to quarantine. Do I qualify for EFEL?

If you are quarantined by the Postal Service as part of its contact tracing program, the Postal Service's contact tracing policy still applies. You would not use EFEL solely for a Postal-Service-issued quarantine, and the appropriate hours code is 086-10, which is administrative leave. If you subsequently develop COVID-19 symptoms or test positive for COVID-19, you would be subject to the current policy in place, which may require you to use another form of available leave such as sick leave or EFEL.

5. My child's school is requiring students to report for in-person lessons some days but using virtual learning on others due to COVID-19. Is this situation covered by EFEL qualifying reason 5?

Yes, if you need the leave to care for your child during that time and are unable to work. You may take EFEL on your child's remote-learning days. All eligibility and documentation requirements still apply.

6. My child's school has given students the option to report for in-person schooling or to use virtual learning. If I choose to have my child use virtual learning, would I be eligible for EFEL under qualifying reason 5?

Yes, if you meet all eligibility and documentation requirements. You are eligible to take EFEL even if the school provided in-person learning as one option along with virtual learning.

7. I have exhausted EFEL (or will exhaust it), but I still need to care for my child whose school is using virtual learning or whose childcare provider is unavailable due to COVID-19. What are my options?

The Postal Service's other leave policies in place at the time you require leave apply to the additional time you are unable to work. If available and applicable consistent with postal policy, you may be able to cover the remaining time with annual leave, sick leave, or leave without pay (LWOP).

8. I work a tour that does not directly conflict with my child's hours of virtual / hybrid schooling or my need to provide childcare as a result of the childcare provider's unavailability. Am I eligible for EFEL under qualifying reason 5?

No. EFEL under qualifying reason 5 is available only for hours that an employee actually is providing childcare because of the qualifying reason.

Supervisors may not require an employee with a normal schedule to work a different schedule or tour (e.g., requiring an employee to work in the evenings) in order to avoid the need for the employee to use EFEL.

9. Because of the compensation cap associated with EFEL, I cannot cover the full amount of time I require leave for a qualifying reason using EFEL. What are my options?

If you are not able to use EFEL, the Postal Service's other leave policies in place at the time you require leave apply to the additional time you are unable to work. If available and applicable consistent with postal policy, you may be able to cover the remaining time with annual leave, sick leave, or leave without pay (LWOP).

10. I am scheduled to be vaccinated. How many hours of EFEL can I take? Can I request EFEL for anticipated side effects?

For your vaccination appointment, you may take only the minimum amount of EFEL necessary to cover time spent getting a COVID-19 vaccination, including necessary travel time. Nonbargaining FLSA-exempt employees should be granted personal leave for this purpose instead of EFEL as long as less than a full workday is required for the vaccination appointment.

You may not request EFEL in advance for anticipated adverse reactions to a COVID-19 vaccine because you would be unable to truthfully attest that you are unable to work as a result of side effects that you have not yet experienced. However, EFEL may be granted if an employee is unable to work (including telework) as a result of adverse reactions to a COVID-19 vaccine.

11. What happens if the Fund runs out of money?

If the Fund is exhausted, no employee will be able to take EFEL. This includes employees who already used EFEL hours that were not reimbursed, are actively on EFEL, and/or had prior conditionally approved EFEL requests. Employees will need to use another applicable type of leave or report to work.

Based on OPM's guidance, the Postal Service will identify employees for whose EFEL use the Postal Service was not reimbursed. These employees will have the option to substitute another available and applicable type of paid leave or LWOP for their cancelled EFEL hours. If LWOP is elected or if no timely election is made, a debt is created, and as stated in the required Employee Agreement, an employee must reimburse the Postal Service to satisfy the overpayment.

Any EFEL requests for dates after the Fund's exhaustion will be denied or cancelled, and employees will need to report to work or use another type of applicable and available leave.