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LABOR RELATIONS



April 29, 2021

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

Emailed

Dear Mr. Wagner:

As a matter of general interest, the Office of Personnel Management (OPM) has released its implementing guidance concerning Emergency Federal Employee Leave (EFEL) under the American Rescue Plan Act.

We have enclosed a memo from Doug Tulino, Chief Human Resources Officer and Executive Vice President, concerning required documentation for EFEL requests and a copy of the "COVID-19 Emergency Federal Employee Leave (EFEL) Employee Notification and Leave Request Form" and the "Employee Agreement in Connection with Emergency Federal Leave (EFEL) Provided Under Section 4001 of the American Rescue Plan Act of 2021" cited therein.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "David E. Mills".

David E. Mills
Manager
Labor Relations Policies and Programs

Enclosures

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

**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).

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 |
|----------------------|------|

| 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>.