

# Impact of Emergency Federal Employee Leave and Leave Without Pay



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**T**his column will address how Leave Without Pay (LWOP) and other special provisions, such as the Emergency Federal Employee Leave (EFEL), that went into effect with the American Rescue Plan Act of 2021 (ARPA) for COVID-19-related leave, can affect retirement benefits for both Federal Employees Retirement System (FERS) and Civil Service Retirement System (CSRS) participants.

An aggregate of six months of LWOP in any calendar year is creditable service. FERS and CSRS coverage continues at no cost to the employee while in a nonpay status. When employees are in a nonpay status for only a portion of

a pay period, their retirement deductions are adjusted in proportion to their basic pay. As an example, if an employee had seven full months of LWOP during the calendar year, he or she would end the year with 11 months of credit toward his or her retirement. Because the employee exceeded the six months of LWOP in a year, the additional period of LWOP over six months was no longer being credited.

High-3 average salary computations are based on periods of creditable service, so periods of nonpay status of six months or less in a calendar year that fall within an employee's average salary period are included in the calculation of the average salary using the rate of basic pay in effect during the period of nonpay status. So, if a letter carrier has an aggregate of five months of LWOP within a calendar year, his or her high-3 average salary will still include the period of LWOP if it falls within his or her three highest consecutive years. However, the periods of LWOP that exceed the six months in the calendar year are excluded.

**EFEL went into effect in March, and can be used for several COVID-19-related circumstances.** Although EFEL is paid leave, it carries some unique effects on retirement benefits. As a requirement of the law, any EFEL provided reduces the employee's total service used to calculate any retirement annuity benefit. Total creditable service is therefore reduced by the amount of EFEL used, but only during the annuity benefit calculation.

EFEL leave remains creditable service for purposes of determining an employee's total service credit in establishing eligibility for a retirement annuity and 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. In conclusion, EFEL leave will not affect your eligibility to retire or your high-3 average salary, but it will reduce the total credit used when calculating the annuity amount.

**The Office of Personnel Management (OPM) is the government agency responsible for administering the related ARPA provisions, as well as FERS and CSRS benefits.** OPM requires that agencies (such as the Postal Service) document the employee's use of EFEL—and that when providing a retirement estimate to an employee, the total hours of EFEL should be excluded from the total service toward the annuity calculation so that the employee receives an accurate estimate of his or her retirement benefits. I have reached out to the Postal Service to inquire about how it plans to comply with this requirement. At this time, the Postal Service is still exploring the change. I will report back when a system has been established to ensure that retirement estimates correctly account for EFEL leave.

If an employee is receiving benefits from the Office of Workers' Compensation Programs, credit generally is given for the entire period of compensation if he or she is carried on the agency rolls in a LWOP status. This time would count toward both eligibility and the annuity calculation, as well as the enhanced annuity, if eligible (see my March *Postal Record* column).

Military LWOP can have different effects depending on the date and type of service performed. I have heard several reports recently of carriers with military LWOP that was not accurately recorded by the Postal Service. When this military LWOP is not properly accounted for, the employee is unable to accurately plan for retirement and can feel misled by the information provided by his or her agency. Anybody with LWOP for military reasons should be sure to research the potential effects of his or her specific service and inquire about the eligibility to make a deposit for those periods, if necessary.

**Keep in mind that LWOP can affect other benefits as well.** For instance, you are not able to contribute to your Thrift Savings Plan or receive matching contributions for the corresponding LWOP periods. Similarly, you are not contributing to Social Security while on LWOP. Extended periods of LWOP can have a substantial impact on your overall retirement because FERS is designed around the use of the Thrift Savings Plan and Social Security. Other benefits also can be affected, such as your annual and sick leave, health insurance and life insurance. Although extended periods of LWOP are usually unavoidable, one should be sure to understand the consequences.