



National Postal Mail Handlers Union

Paul V. Hogrogian
National President

Michael J. Hora
National Secretary-Treasurer

June Harris
Vice President
Central Region

John A. Gibson
Vice President
Eastern Region

David E. Wilkin
Vice President
Northeastern Region

Lawrence B. Sapp
Vice President
Southern Region

Don J. Sneesby
Vice President
Western Region

May 11, 2021

TO: All Local Unions

FROM: Paul V. Hogrogian, President *PVH*
Michael J Hora, National Secretary-Treasurer *MJH*
Teresa Harmon, Manager, CAD *TH*

RE: **Letter to OPM Requesting Clarification on Emergency Federal Employee Leave (EFEL) When Taking Leave under Qualifying Circumstance (5), Caring for Employee's Child**

The National Office has sent the attached letter to Kathleen McGettigan, Acting Director of the Office of Personnel Management requesting clarification on their guidelines for EFEL Qualifying Circumstance #5.

According to the OPM guidance, a covered employee is eligible for EPL if the employee certifies "that he or she is unable to work because of a qualifying circumstance." One qualifying circumstance is "(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." The guidance goes on to state that "[t]his 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." Finally, the guidance directs federal agencies, including the Postal Service, "[t]o confirm eligibility for EPL based on qualifying circumstance (5)" by requiring "an employee [to] 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."

After OPM guidance was issued, management at the Postal Service issued frequently asked questions (FAQs) to cover postal employees, including mail handlers. Those FAQs included in number 8 the following question and answer:



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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.

As made clear by the Postal Service's answer to this FAQ, postal management has taken the position that an employee is eligible only if the employee "actually is" providing childcare during the hours that the employee is scheduled to work. The NPMHU believes that this restriction is a misunderstanding or misinterpretation of OPM's guidance, which simply states that to be eligible the employee "actually is" caring for a child and because the employee is providing such childcare the employee is "unable to work." The NPMHU does not believe that the OPM guidance requires an absolute match between the hours providing childcare and the hours required or scheduled to work.

Please contact the Contract Administration Department if you have any questions.

Cc: National Executive Board
National/Regional CAD



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Kathleen M. McGettigan
Acting Director
U.S. Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

RE: EFEL Guidance for Postal Service Employees

Dear Director McGettigan:

We are writing on behalf of the National Postal Mail Handlers Union, a Division of the Laborers International Union of North America, AFL-CIO, which serves as the exclusive representative for 45,000 mail handlers employed by the U.S. Postal Service. Mail handlers are covered by the statutory provisions of the American Rescue Plan Act of 2021 governing Emergency Paid Leave (EPL) for federal employees, which was the subject of OPM guidance released on April 29, 2021.

According to the OPM guidance, a covered employee is eligible for EPL if the employee certifies “that he or she is unable to work because of a qualifying circumstance.” One qualifying circumstance is “(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.” The guidance goes on to state that “[t]his 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.” Finally, the guidance directs federal agencies, including the Postal Service, “[t]o confirm eligibility for EPL based on qualifying circumstance (5)” by requiring “an employee [to] 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.”



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As made clear by the Postal Service's answer to this FAQ, postal management has taken the position that an employee is eligible only if the employee "actually is" providing childcare during the hours that the employee is scheduled to work. The NPMHU believes that this restriction is a misunderstanding or misinterpretation of OPM's guidance, which simply states that to be eligible the employee "actually is" caring for a child and because the employee is providing such childcare the employee is "unable to work." OPM's guidance, in other words, does not require an absolute match between the hours providing childcare and the hours required or scheduled to work.

For mail handlers, the Postal Service's misunderstanding or misinterpretation has dire consequences directly contrary to the legislative purpose underlying EPL. More than half of the hours worked by mail handlers occur during the evenings or overnight, defined as the period from 6:00 p.m. to 6:00 a.m. If and when a mail handler actually is required to provide childcare during day hours, then that childcare often means that the employee is "unable to work" his or her scheduled hours overnight. In these circumstances, the mail handler or other federal or postal employee should be entitled to EPL.

The NPMHU therefore requests that OPM clarify its guidance to make clear that these circumstances, applicable to many postal and federal employees who are required to work evening or overnight hours, are covered by the statutory provisions governing EPL and by OPM's issued guidance.



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Thank you for your prompt attention and consideration to this matter.

Sincerely,

Paul V. Hogrogian

Paul Hogrogian
National President

Teresa Harmon

Teresa Harmon
Manager, Contract Administration