

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION
AND
THE FEDERAL AVIATION ADMINISTRATION**

This Agreement is made by and between the National Air Traffic Controllers Association ("NATCA" or "Union") and the Federal Aviation Administration ("FAA" or "Agency"), collectively known as the "the Parties." This Agreement represents the full and complete understanding of the Parties regarding the implementation of COVID-19 Emergency Paid Leave (EPL) for FAA under the Section 7103 of the American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2), and Human Resource Policy Manual (HRPM) Policy Bulletin #123, Emergency Paid Leave under ARPA.

Section 1. All bargaining unit employees (BUEs) are eligible for EPL from March 11, 2021 through September 30, 2021 with no length of service requirement. EPL is available with no charge to the BUE's leave balance when an employee 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 experiencing symptoms of COVID-19 (as identified by the CDC) and seeking a medical diagnosis;
- (4) is caring for an individual who is subject to an order described in (1), or self-quarantining as described in (2);
- (5) is caring for their son or daughter if the school or place of care is closed, if the school 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 is unavailable, due to COVID-19 related reasons;
- (6) is experiencing any other substantially similar condition to COVID-19;
- (7) is caring for a family member with a mental or physical disability or who is 55 years of age or older and 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 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.

Section 2. BUEs shall notify the Agency as soon as practicable of their request to take EPL. After notifying the Agency of their request, BUEs will submit the attached Appendix 1 "NATCA/FAA Emergency Paid Leave Request Form" and Appendix 2 "NATCA/FAA Emergency Paid Leave Agreement" electronically or via hard copy to their first-level supervisor.

Section 3. For the period of March 11, 2021 through September 30, 2021, BUEs may elect to use sick leave, annual leave, accrued compensatory time, accrued credit hours, or Leave Without Pay for any EPL qualifying reason.

Section 4. The Parties are supportive of voluntary arrangements that allow a BUE to take EPL intermittently. Requests for intermittent EPL shall not be unreasonably denied.

Section 5. The Agency shall notify BUEs in advance of taking EPL that:

- (a) EPL will reduce the total service used in the calculation of an annuity by the total hours of paid leave from the EPL Fund; and
- (b) EPL remains creditable service for determining a BUE's total service credit for purposes of establishing eligibility for a retirement annuity benefit and for determining a BUE's standard rate of basic pay for calculating their high-3 average salary computation.

The Agency shall annotate Individual Retirement Records to document use of Emergency Paid Leave, including the dates of EPL, the EPL hours received, and the total EPL hours. The Agency shall ensure EPL hours are recorded for retirement annuity estimates and provide the EPL hours the BUE used to the payroll office at retirement, if necessary.

Section 6. Section 5(d)(3) of HRPM PB #123 does not apply to BUEs covered by the 2016 Collective Bargaining Agreement (CBA).

Section 7. BUEs who incur an alleged debt to the Agency due to the use of EPL may challenge the debt via any administrative, judicial, or collectively bargained process, including Article 109 of the Parties' CBAs.

Section 8. The Agency shall promptly notify NATCA at the national level, and all BUEs when the Emergency FAA Employee Leave Fund has been exhausted. Notification to BUEs covered by the Parties' 2016 CBA shall be made via CEDAR.

Section 9. This Agreement does not constitute a waiver of any right guaranteed by law, rule, regulation or CBA on behalf of either Party.


Section 10. This Agreement will remain in effect between March 11, 2021, through September 30, 2022, or until all matters associated with this Agreement have been resolved.

Signed this 16th day of August 2021:

For the Union:



Dean Iacopelli
Chief of Staff




Nicole Vitale
Director of Labor Relations

For the Agency:



Juan Restrepo
Labor Relations Specialist, AHL-300



May Silverstein
Senior Counsel for Labor Relations

APPENDIX 1
Emergency Paid Leave Request Form

Employee's Name:	Facility:
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Emergency Paid Leave
<u>Time Permitted:</u>
<p>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:</p> <ul style="list-style-type: none">• \$2,800 for each full-time employee• Proportionally equivalent biweekly amount for each part-time employee <p>For the life of the Fund, Emergency Paid Leave is limited to 600 hours for a full-time employee or the proportional equivalent of up to 600 hours for a part-time employee, contingent on amounts in the Fund remaining available for reimbursement</p>
<u>Type of Leave:</u> Paid leave
<u>I am unable to work (or telework) because:</u>
<ul style="list-style-type: none"><input type="checkbox"/> (1) I am subject to a federal, state, or local quarantine or isolation order related to COVID-19.<input type="checkbox"/> (2) I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19.<input type="checkbox"/> (3) I am experiencing COVID-19 symptoms (as defined by the CDC) and am seeking a medical diagnosis;<input type="checkbox"/> (4) I am caring for an individual subject to an order described in (1), or self-quarantining as described in (2);<input type="checkbox"/> (5) I am caring for my son or daughter whose school or place of care is closed, whose school 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 whose childcare provider is unavailable due to COVID-19 precautions.<input type="checkbox"/> (6) I am experiencing any other substantially similar condition.<input type="checkbox"/> (7) I am 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, if the place of care for such family member is closed or the direct care provider is unavailable due to COVID-19.<input type="checkbox"/> (8) I am obtaining immunization related to COVID-19 or is recovering from any injury, disability, illness, or condition related to such immunization.
Anticipated leave start date:
Anticipated leave end date:
<input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent*

Explain proposed schedule for intermittent leave:

**Intermittent leave must be agreed upon by the manager and the employee. In accordance with the ARPA MOU, such requests will not be unreasonably denied.*

Employee Certifications (check 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 NATCA/FAA EPL 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 NATCA/FAA EPL 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.

Employee's Signature:

Employee Documentation of Need for Emergency Paid Leave

Qualifying Reason	Documentation
I am subject to a federal, state, or local quarantine or isolation order related to COVID-19.	Name of government entity that issued my quarantine or isolation order: _____
I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19.	Name of the health care provider who advised me to self-quarantine due to concerns related to COVID-19: _____
I am experiencing COVID-19 symptoms and seeking a medical diagnosis.	Name of health care provider where diagnosis is being sought: _____
I am caring for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.	Name of government entity that issued the quarantine or isolation order or name of the health care provider who advised them to self-quarantine due to concerns related to COVID-19: _____
I am caring for my child/children whose school or place of care is closed or whose school 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 whose childcare provider is unavailable due to COVID-19 precaution.	Name of school, place of care, or childcare provider: _____ <input type="checkbox"/> I hereby certify that there is no other suitable person who will be caring for my child during the period of Emergency Paid Leave.
I am experiencing any other substantially similar condition.	Nature of condition: _____
I am caring for a family member with a physical or mental disability who is over 55 years of age whose place of care is closed or whose care provider is unavailable due to COVID-19 related reasons.	Name of place of care or care provider: _____ <input type="checkbox"/> I hereby certify that there is no other suitable person who will be caring for my family member during the period of Emergency Paid Leave.
I am obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization.	Date of Immunization: _____

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<i>(for Agency use)</i>	
<p><input type="checkbox"/> Your request for Emergency Paid Leave is approved.</p> <p><input type="checkbox"/> I have determined that you are not eligible for Emergency Paid Leave for the following reason(s): _____ _____</p> <p><input type="checkbox"/> Your request for intermittent Emergency Paid Leave requires more discussion or is denied for the following reasons: _____ _____</p>	
Manager's Signature:	Date:

APPENDIX 2
FAA/NATCA Emergency Paid Leave (EPL) Agreement
[to be signed before approval of an employee's first use of EPL]

I, _____ understand that the FAA 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 I receive final approval for any use of EPL, the affected conditional EPL will not be approved for payment, and I will be responsible for eliminating the resulting leave debt by taking one or both of the following actions:

- Request 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, and credit hours under a flexible work schedule.

AND/OR

- Take action to satisfy the debt resulting from receiving overpayments for a period of time when I should have been in leave without pay status.

I agree to make the required monetary reimbursement to the FAA and to permit offset of Federal payments (including salary payments) to recover the amount owed, unless I am found to qualify for a waiver of overpayment in accordance with Article 109 in the Parties' applicable collective bargaining agreements (CBAs) or I do not eliminate the leave debt by substituting other paid leave or paid time off. (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. If I retire, resign, or if my employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payment of any nature due to me from the FAA. See FAA Order 2770.2G, *Waiver of Claims for Erroneous Payments*, for the definition of "disposable pay" and other relevant information.)

However, I reserve the right to challenge the Agency's decision through any applicable administrative, judicial, or collectively bargained process and to seek return of any amounts erroneously collected from me.

In addition, I understand and acknowledge that EPL will reduce the total service used in the calculation of an annuity by the total hours of paid leave from the EPL Fund; and EPL remains creditable service for determining a BUE's total service credit for purposes of establishing eligibility for a retirement annuity benefit and for determining a BUE's standard rate of basic pay for calculating their high-3 average salary computation.

Employee's Signature _____ Date: _____

Note: The employee's manager must file this agreement with an employee's EPL request(s).