

## 2.3 What If I Exceed the Biweekly GS Pay Cap?

If you are on the GS pay scale and are hitting the biweekly pay cap, only the pay received up to the pay cap counts toward your High-3 calculation. Understanding how the pay cap is administered is tricky, and it's a two-step process. First, you must understand the annual pay of all GS employees can't exceed that of Level IV of the **Executive Schedule (EX-IV)**. That is an overall cap, but not the true "salary cap" test. GS employees may earn basic pay and premium pay that does not exceed the *greater* of the GS15-10 salary *for their locality*, or the EX-V salary. The 2023 EX-V salary cap is \$172,100 and the 2023 EX-IV rate is \$183,500. Notice I am referring to *both* the EX-IV and EX-V pay levels in the examples below. OPM's explanation of the biweekly pay cap can be found [here](#)<sup>7</sup>.

If we examine the 2023 Washington, DC, OPM salary tables, we can see that GS15-10 pay is \$183,500, far above the EX-V rate, but limited to the EX-IV rate. When you look at the actual cap for Washington, DC, it is \$182,894.40. Why is that the case and not \$183,500?

OPM takes the \$183,500 and divides that amount by 2,087, which represents the number of hours in OPM's work year. That results in an hourly rate of \$87.93. There are 80 hours in a pay period, so  $80 \times \$87.93 = \$7,034.40$ . There are 26 pay periods in a year, so  $26 \times \$7,034.40 = \$182,894.40$ . Although I am explaining this in annualized terms, remember this is a biweekly cap. If your earnings exceed \$7,034.40 in one pay period in 2023, you are "capped" for that pay period. If you find yourself as a salary-capped employee, when you retire, you unused annual leave will also be paid out to you as if you took it in 80-hour increments subject to the biweekly cap. This practice is discussed in detail in the annual-leave-payout section. Keep in mind that if your biweekly pay is \$6,000 in a subsequent pay period after being capped, then *that* pay period is not capped. Some agencies will keep track of this amount that is over the cap and apply it to a subsequent pay period where the cap was not exceeded and add a portion back to bring that pay period up to the cap.

As of 2023, a GS15-10 in the **Rest of the United States (RUS)** pay scale exceeded the EX-V pay rate of \$172,100, so that posted salary table rate, which is above the EX-V, but below the EX-IV rate, is the pay cap. That means that the "real" pay cap is the lesser of the GS15-10 and the EX-IV rate, up to the amount of the EX-IV rate. If you are unsure what wages are counted toward your High-3, simply look at your year-end total FERS contribution deduction and divide that by .008 (.031 for FERS-RAE and .044 for FERS-FRAE).

That result is the salary amount that your FERS deduction was taken from, which is your "base pay" for purposes of computing your annuity payment. You can also examine your **Statement of Earnings and Leave (E&L statement)** and conduct the same test; just multiply the result by

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<sup>7</sup> <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Biweekly-Pay-Caps>

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26 for an annualized result. If you are a member of the Senior Executive Service, the pay cap is higher.

A few years ago, some folks figured out a way to take a day off every pay period as **Leave Without Pay** (LWOP) and their take-home pay remained virtually unchanged. Their biweekly pay exceeded the pay cap by what comes out to be over 8 hours of pay. Their agency allowed these folks to take a single day of LWOP each pay period. When you hit 80 hours of LWOP within a year, you will accrue no annual leave (AL) or sick leave (SL) for one pay period. If you are taking one day of LWOP each pay period, this will happen twice in a year, so you are losing out on 16 hours of AL and 8 hours of SL, but you get 26 days off—a fair trade. Read OPM's Fact Sheet<sup>8</sup> on the effect of LWOP on benefits. Remember, you do not need to use the entire day as LWOP – depending on where your numbers are at, you may determine that 4 hours of LWOP is adequate to equal your over-earn amount.

Each agency has its own policy on how LWOP is administered. The agency in this example has a LWOP policy which states: “LWOP is a temporary, non-pay status and an authorized absence from duty granted at the request of the employee and at management’s discretion. An employee does not have to exhaust AL or SL before requesting LWOP.” Be very careful and be sure you know your agency’s policy before proceeding, as certain agencies have begun to disallow this practice. The issue seems to be the “appearance of impropriety.” Not sure what’s so “appropriate” about coming to work for 10 days and only being paid for 9 days.

Let’s take a look at an actual example from a reader whose salary is above the biweekly pay cap. This person “earns” \$187,300, but because of the pay cap, is paid \$177,382 in their locality. This person earns a gross pay of \$6,822 over a 10-day work period (two 5-day weeks), so that is \$682 per day. This person is \$381 per pay period over the pay cap. This means that if this person took a day of LWOP, he or she would be paid for 9 days instead of 10. His or her gross pay would drop to \$6,138. In this example, the employee can work 9 days a pay period and earn just \$301 less. That may only feel like \$225 a pay period, on an after-tax basis. That’s a deal I will take anytime, to have every other Friday off! I’m aware of dozens and dozens of readers engaging in this practice without issue at a number of different agencies. I’ve had readers email me that they made inquiry to their agency’s human resources department and were told that this was not permissible, yet I have many readers at that same agency doing it without question. The number of folks getting snared by the biweekly pay cap continues to grow as locality pay increases in large cities outpace the GS scale. We can’t keep asking people to perform 10 days of work for 9 days of pay. Some official policy needs to be issued or the cap increased.

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<sup>8</sup> <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>