Your High-3 *includes* **Administratively Uncontrollable Overtime** (AUO) and **Law Enforcement Availability Pay** (LEAP) up to the 25% level and "locality-based comparability payments" (i.e., locality pay). Locality pay certainly makes your High-3 "higher," but it has no other direct effect on your retirement annuity amount. If you were in a high-locality-pay area such as Houston or San Francisco for three years, the benefit of the locality pay is already built into your High-3 base pay.

High-3 calculations *exclude* foreign-post and non-foreign-post differentials, night differential, Sunday differential, holiday pay, scheduled overtime, bonus pay, all "allowances" such as the "Danger Pay Allowance" paid pursuant to 5 USC § 5928, and just about everything else, with a few exceptions.

There is a "carve out" for certain types of overtime paid to certain CBPOs. There is a limit to the amount of this certain overtime that counts as base pay for retirement. The cap changes annually and there can also be waivers issued on a case-by-case basis. The overtime cap is reported at $45,000 per year, with waivers issued that could increase that as high as $65,000 based on reports from readers. The best way to determine what part of your pay counts as base pay for retirement is to divide the FERS contribution on your statement of earnings and leave (E&L) by your contribution rate. I examined several E&L statements submitted to me from CBPOs. It was easy to see that neither night differential nor Sunday differential pay counted as base pay for retirement. It was also apparent that both "OT PAID @ DOUBLE RATE" and "CALL BACK OT DOUBLE RATE" counted as base pay for retirement.

The High-3 for a *structural firefighter* is quite different than the High-3 for a *wildland firefighter*. The difference is in the computation of the amount of overtime pay included in the High-3. This difference is driven by how your shifts are structured in a 72-hour, 60-hour or 56-hour schedule. Structural firefighters can find a great deal of resources at https://www.fedfirepay.net/pay-programs, including helpful firefighter pay charts that break down your pay into "annual pay" and "base pay." The DOD also has a handy seven-page guide[6]. Base pay is what counts for retirement annuity computation. A 72-hour shift schedule has a larger difference between base pay and annual pay than a 56-hour shift schedule. An easy way to determine the portion of your pay that counts towards retirement is to divide the amount deducted for FERS by .013 (.036 for FERS-RAE and .049 for FERS-FRAE) and the result is the base pay used for retirement. The rules regarding this calculation are set forth in OPM Benefits Administration Letter 01-107[7].

Another exception—WG/WS grade employees who work for the Bureau of Prisons in any capacity (and possibly other agencies) are also SCEs. These individuals often receive shift differentials, and those differential payments are part of the High-3 calculation for this group of individuals only.

[6] https://www.dcpas.osd.mil/sites/default/files/2021-04/FederalFirefighterPay.pdf
[7] https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/2001/01-107a.pdf

The High-3 is a weighted-average calculation. If you were at your highest salary for only one month when you retired, that only counts for 1/36th of the High-3. I can't stress this enough. Many folks tell me they are staying on to work one day into the following year or moving to a higher locality area for one month to increase their High-3 by the scheduled pay adjustment. This was especially true with the 7.7% COLA for FERS annuitants payable in January 2023. Many folks believed if they stayed on one month into 2023, they'd somehow benefit from the COLA.

Such action will have no effect on your High-3. It will have a small effect on your unused annual leave paid out to you, but that is small compared to the effect of not having your FERS annuity begin until February 1, in this example. The High-3 does not have to be the last 36 months of service. It is a period of 36 consecutive months of service where your pay was the highest. Your High-3 is computed on the pay that you received where a FERS retirement deduction was taken.

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 2025 EX-V salary cap is $183,100 and the 2025 EX-IV rate is $195,200. 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[8]. Be sure to read Chris Barfield's article on the biweekly pay cap, "The Biweekly Pay Cap.[9]"

If we examine the 2025 Washington, DC, OPM salary tables, we can see that GS15-10 pay is $195,200, 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 $194,542.40. Why is that the case and not $195,200?

OPM takes the $195,200 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 $93.53. There are 80 hours in a pay period, so 80 x $93.53 = $7,482.51. There are 26 pay periods in a year, so 26 x $7,482.51 = $194,542.40 (some rounding). Although I am explaining this in annualized terms, remember this is a biweekly cap. if your earnings exceed $7,482.51 in one pay period in 2025, you are "capped" for that pay period. If you find yourself as a salary-capped employee, when you retire, your 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

[8] https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Biweekly-Pay-Caps
[9] https://www.barfieldfinancial.com/new-blog/the-biweekly-pay-cap

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 2025, a GS15-10 in the **Rest of the United States** (RUS) pay scale exceeded the EX-V pay rate of $183,100, so that posted salary table rate of $190,424, 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 .013 (.036 for FERS-RAE and .049 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 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[10] 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.

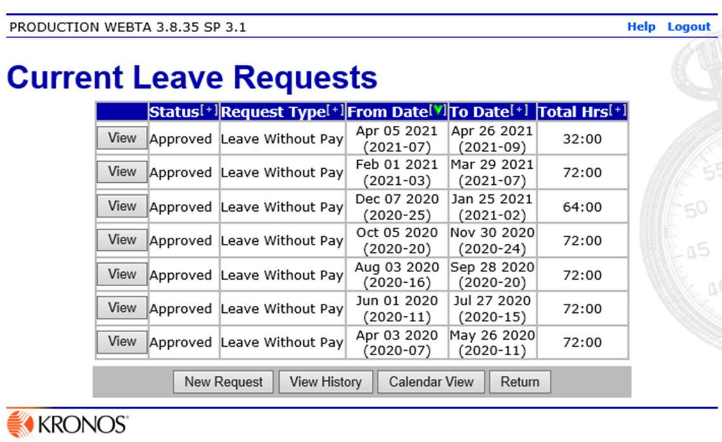
Let’s look at an actual example from a reader whose salary is above the biweekly pay cap. This person “earns” $187,300, but because of the pay cap, is paid $177,382 in their locality. This person earns a gross pay of $6,822 over a 10-day work period (two 5-day weeks), so that is $682 per day. This person 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

[10] https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-without-pay/

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 several different agencies. I've had readers email me that they made an 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.

Here is an email from a long-time reader advising me of his or her LWOP strategy. Here's what he or she advised in their email:

"In your Guide you suggest there are some 1811s with earnings above the administrative pay cap who say straight LWOP (not to be confused with LWOP FMLA), as discretionary leave by a manager, is unavailable while others in the same agency are using it. Here is a test case: I plan to retire at my eligibility date on April 30, 2021 (320 more calendar days!). For the final 13 months of service, I have been/will be taking 1 day each workweek off on LWOP, working 4-day workweeks, or 3-day workweeks in conjunction with holidays (i.e., as a GS-1811-15, step 6 my over-earn equates to 20 hours each pay period so when calculating LEAP it is the equivalent of 2 workdays I don't get paid each pay period!!). This gives me an additional 56 days off over the 13-month period in exchange for reducing my A/L by 40 hours over the same time period (i.e., I don't earn 8 hours of A/L at each 80 hours of LWOP, with a reset at the beginning of the calendar year; I also have 11 odd days of S/L to use so reducing that balance by 20 hours for those foregone with the LWOP hours has no real impact)."



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Current Leave Requests

	Status	Request Type	From Date	To Date	Total Hrs
View	Approved	Leave Without Pay	Apr 05 2021 (2021-07)	Apr 26 2021 (2021-09)	32:00
View	Approved	Leave Without Pay	Feb 01 2021 (2021-03)	Mar 29 2021 (2021-07)	72:00
View	Approved	Leave Without Pay	Dec 07 2020 (2020-25)	Jan 25 2021 (2021-02)	64:00
View	Approved	Leave Without Pay	Oct 05 2020 (2020-20)	Nov 30 2020 (2020-24)	72:00
View	Approved	Leave Without Pay	Aug 03 2020 (2020-16)	Sep 28 2020 (2020-20)	72:00
View	Approved	Leave Without Pay	Jun 01 2020 (2020-11)	Jul 27 2020 (2020-15)	72:00
View	Approved	Leave Without Pay	Apr 03 2020 (2020-07)	May 26 2020 (2020-11)	72:00

New Request | View History | Calendar View | Return

KRONOS

DISCLAIMER: Not every agency processes LWOP requests in the same manner for folks that are over the pay cap and receive AUO/LEAP. One of my readers recently sent me a copy of his E&L statement with an 80-hour pay period and one with a 64-hour pay period, reflecting a 16-hour LWOP request. This employee's agency simply lowered his overall pay by 16 hours, and he got hammered. I examined both E&L statements and I simply can't figure out what the agency did. They appear to maintain the $191,900 as the "annual salary" on the E&L statement and directly adjusted that amount. That's not what I see in practice at other agencies. My message to you is TREAD CAUTIOUSLY! When making your first LWOP request – just request 4 or 8 hours and see the effect on your net pay before moving to 12 or 16+ hours.

UPDATE February 2025: The FBI's "Work Schedule, Time, and Leave Policy Guide" issued on 1/19/2025, expressly prohibits FLSA-exempt employees from using LWOP as described above. From the Guide, "*FBI components must not grant LWOP to SAs who are above a pay cap and lack a waiver solely to give them additional time off from their work schedule without reducing their pay*."

2.4 The High Cost of FERS

Look at your Earnings and Leave (E&L) statement. Most of you are paying for your FERS annuity benefit with a 1.3% deduction from your pay. Employees hired on or after January 1, 2013, are paying 3.6% of base pay (**Revised Annuity Employees** (RAEs)) and those hired on or after January 1, 2014, are paying 4.9% of base pay (**Further Revised Annuity Employees (**FRAEs)). If you find these costs as fascinating as I do, then check out OPM Benefits Administration Letter 23-306[11].

If you are paid through the **National Finance Center** (NFC) look at the bottom portion of the web-based E&L statement and you can see the contribution that your agency makes on your behalf. For example, suppose an agent earns $5,000 per pay period and has $65 (1.3% of pay) deducted from each pay period for FERS retirement and the agency contributed a whopping $1,880 *in each pay period* to fund that FERS retirement. The FY 2023 normal cost (OPM's actuarially-determined cost) for a SCE FERS Law Enforcement Officer/Firefighter retirement is 39.5% of base pay. The employee is paying 1.3% (3.6% for RAE and 4.9% for FRAE) and the agency is paying 38.2%. That's a very pricey retirement. The FY 2023 normal cost for a *regular* FERS employee is 19.2%, with the employee paying .8% (3.1% for RAE and 4.4% for FRAE) and the agency paying 18.4%. That means a SCE costs the agency 20.3% more of base pay than a non-SCE. That's a huge difference – double the cost! and it's an even larger amount when you consider the pay differential created by AUO and LEAP generally not paid to non-SCE FERS employees.

Now, do you suppose a large federal law enforcement agency got the idea to reduce costs by somehow figuring out a way to take special agents off the SCE retirement system and lower their FERS payroll cost by half? Well, folks, that train has left the station already.

[11] https://www.opm.gov/retirement-center/publications-forms/benefits-administration-letters/2023/23-306.pdf