

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 2026 EX-V salary cap is \$184,900 and the 2026 EX-IV rate is \$197,200. 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](#)⁶. Be sure to read Chris Barfield's article on the biweekly pay cap, "[The Biweekly Pay Cap](#)."⁷

If we examine the 2026 Washington, DC, OPM salary tables, we can see that GS15-10 pay is \$197,200, 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 \$196,539.20. Why is that the case and not \$197,200?

OPM takes the \$197,200 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 \$94.49. There are 80 hours in a pay period, so $80 \times \$94.49 = \$7,559.20$. There are 26 pay periods in a year, so $26 \times \$7,559.20 = \$196,539.20$. Although I am explaining this in annualized terms, remember this is a biweekly cap. If your earnings exceed \$7,559.20 in one pay period in 2026, 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 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 2026, a GS15-10 in the **Rest of the United States (RUS)** pay scale exceeded the EX-V pay rate of \$184,900, so that posted salary table rate of \$191,692.80 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 .08 (.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

⁶ <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Biweekly-Pay-Caps>

⁷ <https://www.barfieldfinancial.com/new-blog/the-biweekly-pay-cap>

OPM's Recent Policy Change on the Retiree Annuity Supplement

We ORDER OPM to rescind its December 12, 2017, final decision, stop apportioning the annuity supplement, and refund all previously apportioned annuity supplement amounts to the appellant. OPM must complete this action no later than 20 days after the date of this decision.

OPM appealed the November 28, 2023, MSPB ruling to the United States Court of Appeals for the Federal Circuit, right at the 60-day mark, on 1/26/2024.

I check PACER daily on this matter and I have created a free page on my website where you can obtain the latest information on this appeal: <https://fersguide.com/opm-mspb-decision-on-the-ras/>.

The Petition itself is a pretty short read, at 17 pages. The balance of the filing consists of the MSPB decision. The best part can be found on the lower part of page 14 through page 15. OPM's argument is that if they are forced to follow the MSPB ruling, it may cost \$50 million to resolve and involve 7,000 or more cases. They also cite the increased workload if state courts issue amended COAPs. How lame! Your argument is that you have done some much that was wrong, it creates a burden too large for repair?

On October 10, 2025, the United States Court of Appeals for the Federal Circuit issued their ruling and found against OPM. OPM has now lost twice – once with the MSPB and a second time in the United States Court of Appeals for the Federal Circuit. OPM has 90 days from the opinion date, October 10, 2025, to either appeal to the full 12-judge Appeals Court or file a writ of certiorari with the Supreme Court. I can't imagine the Supreme Court granting a writ in this case, but we will have to wait out the 90-day period which ends December 23, 2025. On December 31, 2025, the United States Court of Appeals for the Federal Circuit issued its "mandate" order, sending the case and their October 10, 2025, opinion back to the MSPB, so OPM did NOT appeal the matter, and it is finally resolved. As to how long it will take OPM to cease automatic apportionment and issue refunds is anyone's guess.

The beauty of this decision is that it was obtained by ONE person. Not a class-action lawsuit. Just one determined man. Always fight injustice!