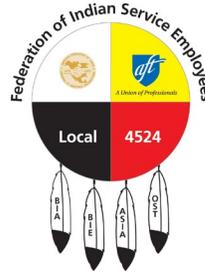




A Union of Professionals



Questions about the furlough? Our union can help.

This government shutdown is causing confusion, stress and hardship for many of us. But we're not alone. Our BIA/BIE employee union, the Federation of Indian Service Employees, and our national affiliate, the American Federation of Teachers, stand ready with help and information.

FISE and the AFT are fighting for all of us during and after the shutdown. They combine the power and expertise of a strong agency-wide local union with the clout and resources of a national union to advocate for us and the people we serve. Together, FISE and the AFT are working for:

- Swift action by the president and Congress to reach an agreement to end the shutdown and pass long-term spending bills (including a pay raise for federal employees) in 2019.
- The passage of a bipartisan bill that would ensure that all excepted and furloughed federal employees receive back pay during this and *future* shutdowns. The bill stipulates that workers would be paid at the earliest date possible after the lapse in appropriations ends, regardless of scheduled pay dates.¹
- A commitment from the BIA and BIE (and all federal agencies) to do their utmost to limit negative effects of the shutdown on employees, both now and after this ends.

FAQ: How the furlough will affect you and your family.

The answers below are based on guidance from the U.S. Office of Personnel Management.² For more information, go to go.aft.org/shutdown or call 202-879-4455.

Will currently furloughed federal employees and “excepted” employees currently working at federal agencies receive back pay once the shutdown is over?

Back pay has been provided in every past shutdown in recent history,³ for both furloughed and excepted workers. OPM guidance recognizes that agencies have already incurred an obligation to pay excepted employees currently working at federal agencies through the shutdown.⁴ Congress will determine whether furloughed employees receive pay for the furlough period—and again, Congress has approved such back pay in the last 22 government shutdowns back to 1974.⁵ (The White House

¹ www.govexec.com/pay-benefits/2019/01/lawmakers-look-ensure-furloughed-feds-receive-back-pay-when-agencies-reopen/153950/; also see: www.federalnewsnetwork.com/government-shutdown/2019/01/now-in-a-new-congress-lawmakers-reintroduce-back-pay-legislation-for-feds-during-shutdown

² www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-shutdown-furloughs.pdf

³ www.govexec.com/pay-benefits/2018/01/white-house-backs-paying-federal-employees-furloughed-during-shutdown/145339

⁴ See page 6 of OPM's "Guidance for Shutdown Furloughs" at www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-shutdown-furloughs.pdf: "Agencies will incur obligations to pay for services performed by excepted employees during a lapse in appropriations, and those employees will be paid after Congress passes and the President signs a new appropriation or continuing resolution."

⁵ www.wusa9.com/article/news/local/verify/verify-yes-furloughed-government-contractors-are-eligible-for-unemployment-during-the-government-shutdown/65-908e589f-2dcc-4ecd-b330-a3ce8593c68d

has also said that it will support back pay for furloughed workers.)⁶ FISE's national union, the AFT, is already pushing hard—and working closely with allies in the labor movement and on Capitol Hill—for the passage of bipartisan legislation that will not only guarantee back pay at the soonest possible point for both excepted and furloughed employees, but will also ensure that back pay is guaranteed in the case of any future shutdowns.

I know I have to be available for callback under the furlough. Can I look for a temporary or part-time job during the shutdown?

The quick answer is, “Yes, with some conditions.” That’s because you remain an employee of the federal government even while you’re on furlough, and therefore must continue to abide by the executive branch-wide standards of ethical conduct contained in 5 CFR Part 2635. The ethics rules generally provide that federal employees shall have no outside employment or activities that conflict with their official duties. Additionally, there are statutes (such as the Hatch Act) that would prohibit certain outside activities and employment. There are also agency-specific supplemental rules that require prior approval of—and sometimes prohibit—outside employment. Therefore, before engaging in any outside employment, you should review these regulations, rules and your contract to ensure there is no question regarding whether the activity is proscribed.

How about health coverage for my family and me? Will employees continue to be covered under the Federal Employees Health Benefits Program during the shutdown furlough, even if our agency can’t make its premium payments on time?

Yes, our FEHB coverage will continue even if our agency does not make the premium payments on time. Here’s how it works: Your health insurance coverage continues during unpaid time, and your “enrollee” share of the premiums will be withheld from your salary once the furlough is over and you return to paid status. Life insurance coverage continues without cost to you for an unpaid period up to a year.⁷

What happens to my Federal Long Term Care Insurance Program coverage and my Federal Employees Dental and Vision Insurance Program coverage?

Payroll deductions for these programs will cease for any employee who does not receive pay. But that *doesn’t* mean that you’ll automatically lose coverage. If Long Term Care Partners does not receive payment for three consecutive pay periods, it will begin to direct bill you, the enrollee. Likewise, a bill will be generated to enrollees for premiums on your FEDVIP coverage when no payment is received for two consecutive pay periods. You should pay premiums directly billed to you on a timely basis to ensure continuation of coverage. Coverage will continue as long as premiums are paid.

Can I use my sick leave during the furlough? How about other paid leave, such as scheduled vacation leave?

Unfortunately, all scheduled paid leave and other paid time off (including paid holiday time off) is canceled during a furlough.⁸ The reason? Federal law⁹ does not allow the authorization of any expenditure or obligation on the government’s part before an appropriation is made to pay for it,

6 www.govexec.com/pay-benefits/2018/01/white-house-backs-paying-federal-employees-furloughed-during-shutdown/145339

7 www.nola.com/expo/news/err-2018/12/1989bd7bf33173/faq-everything-you-need-to-kno.html

8 www.fedsmith.com/2018/12/20/omb-issues-pay-leave-guidance-event-shutdown

9 The Antideficiency Act (31 U.S.C. 1341 et seq.)

unless specifically authorized by law. Therefore, agencies are instructed that during this government shutdown, all paid leave must be canceled and employees must be either at work performing essential activities or furloughed.¹⁰

Will my use-or-lose earned annual leave, scheduled and approved prior to the shutdown, but set to occur during the shutdown, be restored?

Many of us scheduled to take use-or-lose annual leave in late December and early January. As noted above, all leave is canceled for lapse-affected employees during the lapse in appropriations. But in general, if the cancellation of annual leave due to a lapse causes an employee's annual leave balance to exceed the annual carry-over limit at the end of the leave year, that canceled leave may be restored to the employee's credit following agency procedures, since the lapse is considered an exigency of the public business.

What if I scheduled use of "restored annual leave" that is due to expire at the end of the leave year (because it is the end of the two-year restoration period)? If that leave is canceled and lost due to the shutdown, can our agency restore that leave again?

Unfortunately, no. Restored annual leave from prior years cannot be restored a second time even if scheduled use of the restored leave is canceled due to a lapse in appropriations/shutdown.¹¹

Will this shutdown affect my "time in service" or my "high three" for retirement?

The shutdown won't affect future retirement benefits for current employees *unless* it goes on far longer than past shutdowns. That's because a calendar year with up to six months of unpaid leave still counts as creditable service time for retirement. Likewise, your "high three"—the average salary of your highest-paid consecutive three years with the government—is based on the salary rate, not the salary actually received, for any year with up to six months of unpaid leave in that year.¹²

What about qualification standards, time-in-grade requirements, within-grade increases, accrual of annual/sick leave, required service period regarding student loan repayment, etc.? Will nonpaid time affect my creditable service for determining entitlement or eligibility for these federal benefits and programs?

The effect of nonpaid time on these benefits and programs varies. Check this chart provided by OPM for specifics: 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.

What happens to my Thrift Savings Plan contributions and/or loans?

For detailed information on the furlough and your TSP account (including loan payments, contributions, interfund transfers and contribution allocations), see this TSP fact sheet: www.tsp.gov/PDF/formspubs/oc95-4.pdf. (Note: If you have an outstanding loan and you are furloughed, your

10 www.va.gov/opa/docs/VA_Guidance_FAQs_for_Emergency_Shutdown_Furlough_January_2018.pdf, pages 19-20; also see: www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-shutdown-furloughs.pdf

11 www.whitehouse.gov/wp-content/uploads/2018/12/Special-Instructions-for-a-Possible-December-22-Lapse.pdf

12 www.nola.com/expo/news/erry-2018/12/1989bd7bf33173/faq-everything-you-need-to-kno.html

loan payments will stop because they're deducted from your pay. If you miss more than 2½ payments, the TSP will notify you by mail that you must mail in a personal check.)¹³

How would I resign my federal position during this shutdown?

You should send a certified letter (or email from your personal email address) of resignation to your supervisor at his or her work address, with a copy to the head of your agency's personnel office. Be sure to provide enough notice as may be required by your contract and to include your full name, position and date on which you want your employment to end. While your request may not be formally handled until the furlough is over, such notice will allow you to resign and accept a new position. Any additional required paperwork may be completed when funding is restored. No time spent by the former employee in such actions after the effective date of separation may be considered as duty time, since the individual would no longer be an employee of the agency.

FISE/AFT: Together in tough times.

¹³ www.va.gov/opa/docs/VA_Guidance_FAQs_for_Emergency_Shutdown_Furlough_January_2018.pdf; for a relevant decision on the U.S. Government Accountability Office's site, see: www.gao.gov/products/458670#mt=e-report