*Notice for Furloughed Non-SES Employee*

**To:** [Name of Furloughed Non-SES Employee]

**Subject:** Furlough Decision Notice Due to Lapse of Appropriations (5 CFR Part 752)

1. The purpose of this letter is to notify you that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*VA organization*) is placing you on furlough without pay effective \_\_\_\_\_\_\_\_\_\_\_\_\_ *(enter month, day, and year)*. The Department of Veterans Affairs (VA) does not expect this furlough to exceed 30 calendar days (22 workdays). Therefore, this furlough notice expires no later than *\_\_\_\_\_\_\_\_\_\_\_\_\_ (enter month, day, and year)*.
2. The reason for this furlough is that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(*VA organization*) does not have full funding through either a continuing Federal Government budget resolution or a Fiscal Year (FY) 2022 appropriation. Thus, VA may incur no further financial obligations except for those related to the orderly suspension of affected VA operations, those covered by 2022 appropriations; or those in the performance of excepted activities as defined in the Office of Management and Budget (OMB) Circular No. A-11, dated June 2019, and OMB Memorandum M-18-05 dated January 19, 2018.
3. Though the work you perform is valued, your position will not be required to be engaged in the orderly suspension of affected VA operations, is not an activity with available appropriations; or is not engaged in one of the excepted functions; therefore, you must be placed in a furlough status.
4. During the furlough period, you will be in a non-pay, nonduty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace unless and until recalled, and should not perform any work in a nonexcepted or unfunded activity. An employee of VA and the United States Government who “knowingly and willfully” violates this law shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office and shall be fined not more than $5,000, imprisoned for not more than 2 years, or both. The furlough also causes cancellation of any paid leave (annual, sick, court, etc.) previously approved or planned for use during the furlough period.
5. This action is being taken because of a sudden emergency requiring curtailment of VA activities; therefore, no advance notification is possible. Thus, the customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404 (d)(2).
6. You should access VA’s website ([www.va.gov](http://www.va.gov)), Office of Personnel Management’s website ([www.OPM.gov](http://www.OPM.gov)) and monitor public news broadcasts for notice that either a continuing Federal Government budget resolution or an FY 2022 appropriation for all of the Department of Veterans Affairs has taken effect. Once either of those events occurs, you should return to work on your next regular scheduled duty day. Employees that do not return to duty after the furlough has adjourned will be determined to be absent without leave (AWOL). AWOL is an unauthorized absence from duty in which the employee receives no pay and is subject to disciplinary action.
7. As a furloughed employee, you have the following appeal or grievance rights:

a. Employees who have completed a probationary or trial period or 1 year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the Merit Systems Protection Board. See paragraph 9 below for specific instructions on how to file an appeal.

b. Employees in the excepted service who have Veterans’ preference may appeal to the Merit Systems Protection Board if they have completed 1 year of current continuous service in the same or similar positions as the one they now hold. See paragraph 9 below for specific instructions on how to file an appeal.

c. Employees in the excepted service who do not have Veterans’ preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to the Merit Systems Protection Board if they have completed 2 years of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less. See paragraph 9 below for specific instructions on how to file an appeal.

d. Employees in the excepted service who do not have Veterans’ preference and who have completed more than 1 year (but less than 2 years) of current continuous service in the same or similar positions in an Executive department or agency under other than a temporary appointment limited to 2 years or less may appeal the action under the VA grievance procedure. Your formal grievance must be addressed to the official that signed the letter of furlough, within 15 calendar days after you receive this furlough. For further information about the VA grievance procedure, you may consult your local Human Resource Office.

e. Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement (*provide citation to negotiated agreement*), if covered by the agreement, or may appeal to Merit Systems Protection Board in accordance with the procedures outlined in paragraph 9, but not both. However, to be eligible to appeal to the Merit Systems Protection Board, in lieu of filing a negotiated grievance, you must meet one of the criteria in paragraphs a through d above. To obtain information on filing a grievance under the negotiated grievance procedure, contact (*name of exclusive union representative*).

f. If you do not meet any of the criteria under paragraphs a through e above, you do not have any appeal or grievance rights.

8. Employees have a right to representation in this matter and may choose an attorney or other person to represent them.

9. If you have the right of appeal to Merit Systems Protection Board, your appeal may be submitted by mail, facsimile, by commercial overnight delivery, by electronic filing at <https://e-appeal.mspb.gov/>, or in person at any time after you receive this letter, but not later than (30) calendar days after the separation has been effected.

10. The address to mail your appeal is\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*insert address from list below*). You must submit an original and one copy of both your appeal and all attachments. If you do not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide you an opportunity to show why the appeal should not be dismissed as untimely. Copies of the Instructions for the Merit Systems Protection Board Appeal Form (Form 185) are at <http://www.mspb.gov/appeals/appeals.htm>. Please refer to [www.mspb.gov](http://www.mspb.gov) for information regarding the appeals process and procedures that must be followed. You may be represented by an attorney or other representative of your choice.

11. Attached is the SF-8, Notice to Federal Employee about Unemployment Insurance. Additional information about unemployment insurance is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Unemployment-Insurance-Resources>

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding agency funding becomes available. If you have questions, contact [*contact name, phone number, and email address*].

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Deciding Official Date

I acknowledge receipt of this decision and notice to furlough.

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Employee's Signature Date

Attachment: SF-8