



GOVERNMENT SHUTDOWN Q&A – v. SEPT. 28, 2023

A) EXCEPTED / NON-EXCEPTED EMPLOYEES

Q1. What does it mean to be designated as “excepted” or “non-excepted?”

A.1: In the context of an emergency shutdown furlough, “excepted” refers to employees whose work is funded through annual appropriations but are not furloughed because they are performing tasks that are allowed by law to continue during a lapse in appropriations. This work is referred to as “excepted work” and includes emergency work involving the safety of human life or the protection of property. Employees who do not perform excepted work are designated as “non-excepted” and will be furloughed.

In a lapse in authorization, the agency must cease all functions because they are not authorized to continue. The same excepted work exceptions apply.

Q2. If an employee is scheduled to work during the shutdown, is it optional to show up?

A2: No. Employees not on furlough are obligated to report to work. Existing rules and procedures apply to authorized absences from duty during the shutdown.

Q3. Are Developmentals and CPC-ITs considered excepted?

A3: Employees who have no position certifications in their current facility will likely be determined to be non-excepted, meaning subject to furlough during the shutdown.

B) PAY

Q4. Will excepted employees be paid for performing work during a shutdown furlough? If so, when will excepted employees receive such payments?

A4: In accordance with the Government Employee Fair Treatment Act of 2019 (GEFTA), excepted employees required to perform work during a lapse in appropriations must be paid for those work periods occurring during the lapse. Retroactive pay must be provided at the employee’s standard rate of pay at the earliest date possible after the lapse ends.

For excepted employees, the “standard rate of pay” is the pay the employee is entitled to for the actual hours of work under the normally applicable pay rules. For example, excepted employees who perform overtime during a shutdown will be paid for that overtime work.

GEFTA does not apply to a lapse in authorization.

Q5. Will employees who are placed in a furlough status get paid?

A5: Yes. Under GEFTA, employees placed in a furlough status as the result of a lapse in appropriations must be paid for furlough periods that occurred during the lapse. After the lapse ends, retroactive pay is provided at the employee’s “standard rate of pay.” If the pay may not be provided on the normal pay date for the given pay period, it must be provided at the earliest date possible after the lapse ends.

Q6. May an excepted employee be permitted to earn premium pay (e.g., overtime pay, Sunday premium pay, night pay, OJTI, and all other premiums and differentials contained in NATCA's Collective Bargaining Agreements (CBAs)) during the furlough period?

A6: Yes. Excepted employees who meet the conditions for overtime pay, Sunday premium pay, night pay, and other premium payments will be entitled to payment in accordance with applicable rules, subject to any relevant payment limitations.

Q7. If the next regularly scheduled pay date occurs during the shutdown, will employees be paid?

A7: Employees will receive pay for pay periods that were completed prior to the shutdown even if the pay date is during the shutdown.

If a shutdown occurs in the middle of a pay period, employees will receive pay on the regularly scheduled pay date for the time worked prior to the shutdown.

C) LEAVE

Q8. Can employees request absence due to incapacitation (sick leave) during a shutdown?

A8: Yes. However, during a shutdown, designated excepted employees cannot be in a paid leave (sick leave) status. They will be placed on a furlough status during their absence, and there will be no charge to leave balances (See Q/A5). A designated excepted employee who is incapacitated for duty should call in sick in accordance with Article 25 of the CBA. Because they cannot be placed on sick leave, they will be placed on a furlough status during their absence. They should return for the next regularly scheduled shift for which they are no longer incapacitated for duty.

Q9. Can employees request absence from duty (annual leave/credit hours) for reasons other than incapacitation during a shutdown?

A9: Yes. However, during a shutdown, designated excepted employees cannot be in a paid leave status (annual leave/credit hours). They will be placed on a furlough status during their absence, and there will be no charge to leave balances (See Q/A5). Absence from duty should be requested using Article 24 of the CBA and local procedures. Approval is subject to staffing and workload.

Q10. Can employees use previously approved annual or sick leave during a shutdown?

A10: Yes. However, during a shutdown, designated excepted employees cannot be in a paid leave (annual or sick leave) status. They will be placed on a furlough status during their absence and there will be no charge to leave balances (See Q/A5).

Q11. I am scheduled to be on Paid Parental Leave (PPL) during the shutdown. How does a shutdown affect my overall paid parental leave during entitlement?

A11. FMLA leave, including Paid Parental Leave, taken during a shutdown furlough period does not count toward the employee's 12-week FMLA entitlement.

Any previously scheduled FMLA leave that occurs during a lapse in appropriations will be cancelled. This includes qualifying paid leave, such as Paid Parental Leave, that the employee would have substituted for unpaid FMLA leave during the shutdown period. During a shutdown, designated excepted employees cannot be in a paid leave status, and their FMLA leave will be treated as any other paid leave. Such employees will be placed in a furlough status, their absence from work will not be counted against the FMLA 12-week limit, and there will be no charge to leave balances.

Q12. Can employees use holiday leave during a shutdown?

A12: During a shutdown, employees cannot be in a paid leave status. This includes holiday leave. Excepted employees who are not scheduled to work the holiday will be placed in a furlough status for the holiday and shall return to work on their next scheduled workday (See Q/A5). Non-excepted employees will remain in a furlough status for the duration of the shutdown.

Q13. Do employees accrue sick and annual leave during the shutdown?

A13: Yes. Excepted employees continue to accrue leave. However, the leave will not be credited until after the shutdown ends. After the shutdown has ended, non-excepted employees are entitled to be paid the employee's standard rate of pay during any furlough period, including any accrual of sick or annual leave. Employees' leave balances should be credited with the payment of retroactive pay.

Q14. May an excepted employee be permitted to earn compensatory time off or credit hours during the shutdown period?

A14: Yes. Excepted employees may earn compensatory time off and credit hours, subject to requirements found in the CBA.

Q15. Can employees use Parental Bereavement Leave (PBL) during a shutdown?

A15: Yes. However, during a shutdown, designated excepted employees cannot be in a paid leave status. They will be placed on a furlough status during their absence and there will be no charge to leave balances (See Q/A5). Such absences from work will be subject to the eligibility criteria in accordance with the CBAs and Memoranda of Understanding (MOUs) on those topics.

D) TRAINING

Q16. Can we still actively conduct OJT during the shutdown?

A16: Operational training for excepted employees will continue as an excepted activity.

E) FEDERAL CONTRACT TOWERS

Q17. How does the shutdown affect Federal Contract Towers (FCTs)?

A17: We have confirmed with the FAA FCT Program Office that FCTs will continue to operate during a shutdown.