



International Boundary and Water Commission
United States and Mexico
United States Section

Memorandum

Distributed via USIBWC E-mail

December 21, 2018

To: USIBWC Employees Not Excepted from Furlough

From: Fred William Graf
Director of Human Resources

Subject: Notice of Furlough

If an absence of either a Fiscal Year (FY) 2019 appropriation or a continuing resolution for the United States Section, International Boundary and Water Commission (USIBWC) occurs, no further financial obligations may be incurred by the USIBWC, except for those related to the orderly suspension of USIBWC operations or performance of excepted activities as defined in the United States Office of Management and Budget (OMB) memorandum for Heads of Executive Departments and Agencies dated November 17, 1981.

If a furlough indeed occurs and you are not excepted from the furlough, your services will no longer be needed for orderly suspension of operations and you are not engaged in one of the excepted functions; you will be placed in a furlough status effective 12:01 AM on Saturday, December 22, 2018. Promptly check with your supervisor if you are uncertain about your status as an excepted or non-excepted employee. This furlough, i.e., non-duty, non-pay status, is not expected to exceed 30 days. Therefore, this furlough notice expires on January 20, 2019. You must monitor public broadcasts and the Internet. When a continuing resolution or an FY2019 appropriation for the USIBWC is approved, you must return to work on your next regular duty day.

If this action indeed is taken, it is because of a sudden emergency requiring curtailment of the agency's activities; therefore, no advance notification is possible. The customary 30-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404(d)(2).

If employees are being retained in your competitive level or competitive area, they are required for orderly suspension of agency operations or they are performing one of the excepted activities defined in the OMB memorandum.

During the furlough period, you will be in a nonduty, non-pay status and you must not work at your workplace or other alternative worksite unless and until you are recalled to duty. You will not be permitted to work as an unpaid volunteer. Any paid leave previously approved for use during the furlough period is hereby cancelled.

Employees who have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment may appeal this action to the United States Merit Systems Protection Board (MSPB). Employees in the excepted service who have veteran preference may appeal to MSPB if they have completed one year of current continuous service in the same or similar positions as the one they now hold. Employees in the excepted service who do not have veteran preference and who are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service may appeal to MSPB if they have completed two years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to two years or less.

If you have the right of appeal to MSPB and wish to appeal this action to the MSPB, you must file the appeal within 30 calendar days after the effective date of your furlough, or 30 days after the date of your receipt of this decision notice -- whichever is later. If you wish to file an appeal, you may obtain information about the appeals process and a copy of the appeals form from the MSPB website at <http://www.mspb.gov/appeals/appeals.htm>. MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. MSPB also offers the option of electronic filing at <https://e-appeal.mspb.gov/>. You may wish to check MSPB's website for its operating status during this time. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing. The following is the *MSPB appeal hyperlink form*: <https://e-appeal.mspb.gov/>. If you inform me that you lack Internet access, I shall provide you a hard copy of the pertinent MSPB regulations and the appeal form.

If you are a bargaining unit employee, you may grieve this action in accordance with the applicable negotiated agreement or may appeal to MSPB in accordance with the procedures outlined above, but not both. To obtain information on filing a grievance under the negotiated grievance procedure, contact AFGE Union Local President Diego Rivera at AFGEUnionLocal3060@yahoo.com. You have the right to file a grievance or seek corrective action under subchapters II and III of 5 U.S.C. chapter 12, including:

- (1) Whether the election of any applicable grievance procedure will result in waiver of the your right to file an appeal with the Board;
- (2) Whether both an appeal to the Board and a grievance may be filed on the same matter and, if so, the circumstances under which proceeding with one will preclude proceeding with the other, and specific notice that filing a grievance will not extend the time limit for filing an appeal with the Board;
- (3) Whether there is any right to request Board review of a final decision on a grievance in accordance with § 1201.155 of this part;
- (4) The effect of any election under 5 U.S.C. 7121(g), including the effect that seeking corrective action under subchapters II and III of 5 U.S.C. chapter 12 will have on your appeal rights before the Board; and
- (5) You might have a right to file a complaint with the US Equal Employment Opportunity Commission or to grieve allegations of unlawful discrimination, consistent with the provisions of 5 U.S.C. 7121(d) and 29 CFR 1614.301 and 1614.302.]

Attached is the SF-8, *Notice to Federal Employee about Unemployment Insurance*. Keep in mind that, if you apply for unemployment benefits and receive any payments, you will be required to repay the state if Congress authorizes back-pay for furloughed employees, which has happened in the past. Additional information about unemployment insurance is available at:

<http://www.servicelocator.org/OWSLinks.asp>.

USIBWC management recognizes the difficult financial implications of any furlough, no matter how limited its length. We will try to keep you informed as additional information regarding the agency funding level becomes available. You may read the USIBWC FY2019 Absence of Appropriations Plan on our website www.ibwc.gov, under "IBWC News and Press Releases." If you have questions not answered in this memorandum or the agency plan, contact me at fred.graf@ibwc.gov



Fred William Graf
Director of Human Resources
and
Deciding Official

December 21, 2018

Attachments:

SF-8

Sample Letters to Creditors
