

Memorandum of Understanding
Furlough in the Event of a Lapsed Appropriation during FY2011

This agreement is made the 5th day of April 2011 by and between the Library of Congress (the Library) and AFSCME Local 2477 (the Employees' Union), AFSCME Local 2910 (the Guild), and the Congressional Research Employees Association (CREA) (the Unions).

Introduction

1. Any furlough conducted as a result of a lapsed appropriation will be implemented fairly and equitably in accordance with Library of Congress Regulation (LCR) 2021-4 to the extent such provisions are applicable to a lapsed appropriation furlough, as well as any other applicable laws, rules, regulations, and applicable negotiated agreements. Consistent with LCR 2021-4, Section 10 the Library's decision to furlough an individual employee may not be grieved, and it is not subject to arbitral review. Alleged procedural violations of LCR 2021-4 and of this MOU may be grieved
2. The effect of the lapsed appropriation furlough on leave, retirement coverage, life insurance coverage and enrollment, unemployment compensation, injury compensation, travel, and creditability of service are explained in LCR 2021-4. [create hyperlink]
3. The Unions enter into this MOU with the Library covering a furlough of employees due to a government shutdown necessitated by lapsed appropriations during FY2011. By executing this MOU the Unions do not waive or limit the statutory or other rights of their bargaining unit employees. By executing this MOU the Unions do not waive their rights to negotiate over any furloughs for reasons other than lapsed appropriations, or lapsed appropriation furloughs beyond the remainder of FY2011, or over any subsequent changes to bargaining unit employees' conditions of employment that result from the Congressional budgeting process and that are not covered by any collective bargaining agreement or Library of Congress regulation. By executing this MOU the Library does not waive any management rights found in law, regulation, or collective bargaining agreement provision, including the right to determine who will be furloughed and for how long. To the extent any provision of this MOU is determined to be inconsistent with any applicable provision in LCR 2021-4, the provision in the LCR will prevail.

Implementing a Furlough

4. The Library will follow LCR 2021-4 with respect to notifying the Unions of a furlough and notifying employees of their status (furlough or excepted).

- a. The Library intends to issue a general Special Announcement in the event appropriations lapse and employees are furloughed.
 - b. The Library intends to send furloughed employees a group-list email indicating that they are furloughed consistent with the special announcement. In this email the Library will provide employees who are furloughed contact information to apply for unemployment compensation, including an SF-8. The Library will notify employees who are furloughed of the impact of a furlough on their benefits.
 - c. The Library intends to notify employees who are excepted via individual memorandum or email.
 - d. The unions will receive a list of employees who have been notified they are excepted.
5. If management determines that more than one employee is equally capable of performing the same excepted functions, management will consider rotating employees during a lapsed appropriation furlough unless such rotation would interfere with a legitimate business need.
 6. A lapsed appropriation furlough shall not be used to punish or disadvantage any employee. A lapsed appropriation furlough will not be used in lieu of an adverse or disciplinary action.
 7. Based on mission requirements and consistent with applicable Library of Congress regulations and collective bargaining agreement provisions, management will determine whether an employee who is excepted from a furlough must report to the duty station on a day that has previously been approved for telework.
 8. Furlough days will be treated the same as approved leave for purposes of performance standards and/or requirements.
 9. Employees will perform no work for the Library while on furlough and will not be provided any work-related assignments or instructions while on furlough; however, employees on furlough may be contacted by the Library to advise them that their status has changed to "excepted" and they are expected to report to work. The Library will not normally change an employee's status to excepted without speaking directly to the employee.
 10. The Library will inform employees how they can access and print their WebTA and NFC records (through the Employee Personal Page) to document reductions in hours worked and pay due to a furlough.
 11. When a lapse in appropriations ends, all furloughed employees will return to duty for their next scheduled tour, consistent with LCR 2021-4, Section Seven.

Compensation and Awards

12. The Library will comply with all applicable laws, rules, and regulations with respect to compensation for employees who are required to work during a lapsed appropriation furlough.
13. Any retroactive pay for employees who were furloughed due to a lapse in appropriations will be determined by law and applicable regulation.
14. Bonuses and performance awards that received final approval by HRS and have been transmitted to NFC for processing prior to a lapse in appropriations will be paid when the Library has sufficient appropriated funds.
15. The Library will provide employees with information on how they can adjust their income tax withholding and how they can change their Combined Federal Campaign contribution rates.

Union Access to Library During Furlough

16. During a lapsed appropriation furlough, up to two designated furloughed union representatives from each union may access their union offices in the Madison Building and equipment to volunteer service to their union and bargaining unit employees; this is not Library-paid "official time." Within one day of the signing of this Agreement each union will provide to the Library the names of its two representatives to be granted access under this provision. Union officials who are excepted may not use official time while in an excepted status.

Annual and Sick Leave

17. In the event of a lapsed appropriation furlough, any previously approved annual leave will be cancelled. Employees who are advised that they are excepted from the furlough will be instructed to report to work. Employees who are not excepted from the furlough will remain absent from work during the furlough.
18. Upon the expiration of the lapsed appropriation furlough, employees who were on approved annual leave that did not extend beyond the end of the lapsed appropriation furlough will be required to report back to duty.
19. Employees whose annual leave is cancelled due to a lapsed appropriation furlough may reschedule that leave upon expiration of the lapsed appropriation furlough, consistent with applicable law, regulations and collective bargaining agreement provisions.
20. If law and/or government-wide regulation permits employees who were unable to reschedule "use or lose" annual leave that was cancelled due to a lapsed appropriation furlough to carry over more than 240 hours to the next leave year, the Library will so notify employees and the unions.

21. In the event of a lapsed appropriation furlough, employees on approved sick leave on the effective date of the lapsed appropriation will have their sick leave canceled. Employees who are excepted will be furloughed for the period of time they would have been on sick leave. Employees who are not excepted will be permitted to remain absent from work in furlough status for the duration of the lapsed appropriation furlough. Upon the expiration of the lapsed appropriation furlough, employees who were on approved sick leave that did not extend beyond the end of the lapsed appropriation will be required to report back to work unless their medical status precludes them from doing so.
22. If an employee's medical status precludes him or her from reporting to work upon the expiration of the lapsed appropriation furlough, the employee must request sick leave in accordance with applicable procedures.
23. Lapsed appropriation furlough days do not count against Family and Medical Leave Act (FMLA) absences and entitlement.

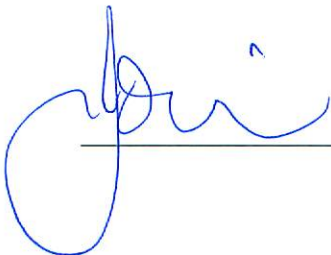
Miscellaneous

24. Employees may accept outside employment during a lapsed appropriation furlough consistent with Section nine of LCR 2021-4 and LCR 2023-3.
25. Life Insurance and Health Insurance enrollment and contributions will be addressed per the terms of LCR 2021-4.
26. The Library will send an email to employees within two business days of the signing of this agreement reminding them of the resources that the Employee Assistance Program (EAP) provides, including credit counseling. EAP will not be available during a lapsed appropriation furlough.

For the Library







For the Employees' Union



For the Guild



For CREA

