

2018 SHUTDOWN FURLOUGH FAQs

Question: The NGB shutdown notification template addresses the specific timelines for T5 MSPB filing. It does not state that for T32, but reads that "included is the address of the appropriate MSPB office for filing the appeal and time limits for appealing to the MSPB." Are timelines under T5 and T32 the same?

Answer: You must file an appeal in writing with the regional or field office of the Board that has jurisdiction over the area where your duty station was located when the agency took the action. Appeals of Office of Personnel Management reconsideration decisions concerning retirement benefits, and appeals of adverse suitability determinations under 5 CFR part 731, must be filed with the regional or field office that has jurisdiction over the area where you live. See 5 C.F.R. § 1201.4(d).

An appeal must be filed within 30 calendar days of the effective date of the action, if any, or within 30 calendar days after the date of receipt of the agency's decision, whichever is later. If the 30th day falls on a Saturday, Sunday, or Federal holiday, the filing deadline is extended to the next working day.

It appears there is no difference between T5 and T32 for timeline filing.

Question: I don't see where under 5 CFR 1201.3 where an employee can appeal a lapse in funding furlough. Why are we telling our employees they can appeal?

Answer: IAW OPM Guidance for Shutdown Furloughs. All notices must include a statement of applicable appeal and grievance rights. An agency must satisfy the obligation to provide a copy of the MSPB appeal form when issuing a decision notice. Providing the MSPB appeal hyperlink form electronically (<https://e-appeal.mspb.gov/>) will typically satisfy the requirement of ensuring that employees subject to a decision appealable to MSPB will have effective access to the MSPB regulations and appeal form. However, if the employee informs the agency that he or she lacks Internet access, the agency is required to take steps to ensure that the employee has actual access to the MSPB's regulations and the appeal form including providing the employee with a hard copy of these documents upon the employee's request.

Question: Can we appoint new hires to include Not-to-Exceed employees?

Answer: No, due to the lapse in appropriations, State are not authorized to appoint or employ new hires.

Question: If a Government shutdown occurs, how will furloughed technicians be informed when it is over?

Answer: Technicians should follow their State procedures, including any applicable collective bargaining agreements, which may include monitoring OPM's website (www.opm.gov) and media outlets for notification that a continuing resolution or appropriation has been signed by the President.

Question: When a Government shutdown ends, when are furloughed technicians expected to return work?

Answer: If a shutdown were to occur, guidance concerning when furloughed technicians should come back to work at the conclusion of the shutdown would have to be tailored to the specific situation. In the absence of such guidance, States should apply a rule of reason in requiring technicians to return to work as soon as possible, taking into account the disruption in the lives and routines of furloughed technicians that a shutdown causes.