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ONE HUNDRED FIFTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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Thomas A. Rust
Staff Director and Chief Counsel

Donna Herbert
Director of Administration

Megan Savage
*Chief of Staff and Counsel to
the Chairwoman*

Daniel J. Taylor
Counsel to the Ranking Member

1015 Longworth House Office Building
Washington, D.C. 20515-6328
Telephone: (202) 225-7103
Facsimile: (202) 225-7392

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Susan W. Brooks, Chairwoman
Theodore E. Deutch, Ranking Member

SUBJECT: Ethics Guidance Related to Operations During a Lapse in Appropriations

As House offices consider the implications of a possible lapse in appropriations the Committee wishes to reiterate prior related guidance concerning furloughed staff. As noted in the guidance issued by the Committee on House Administration, a furloughed (non-essential) employee may not perform official duties or provide services during the furlough period. For further discussion, please see pages 12 to 13 of the *Members' Congressional Handbook* and the guidance titled *Legislative Operations During a Lapse in Appropriations* issued by the Committee on House Administration.¹

We remind all House Members and employees, during a lapse in appropriations you remain subject to all ethics rules and regulations. Accordingly, Members and employees may not accept any gift, except as provided in the House gift rule.² Members and employees who have received Committee approval to participate in privately-sponsored, officially-connected travel or plan to participate in a Mutual Educational and Cultural Exchange Act (MECEA) trip, please contact the Committee for further guidance as to whether you may participate in such travel during a lapse in appropriations.

In addition, there are significant limitations on the use of volunteer services in place of paid services. For instance, unpaid interns, fellows, or detailees may be able to work during a lapse in funding, but they may not supplant the duties of a paid House employee. Executive branch employees detailed to a House committee should consult their agency to determine if they are deemed essential. For additional guidance, please see page 5 of the *Members' Congressional Handbook* and pages 284 to 292 of the *Ethics Manual*. All standard guidance and limitations should be followed.

While there are permissible uses of campaign funds to support official activities, House Rule 24 does not permit offices to use campaign funds to compensate employees for services. Therefore, non-essential staff may not be paid with campaign funds to perform official duties. While staff may of course work or volunteer for a campaign during a furlough period, campaign work may not be performed on House property. Consequently, while on furlough, such employees should not return to the office or communicate about official matters with the office (with the exception of scheduling coordination).

¹ Comm. on House Admin., *Legislative Operations During a Lapse in Appropriations* (Jan. 2018), available at <https://cha.house.gov/lapse-in-appropriations-guidance>.

² House Rule 23, cl. 4 and House Rule 25, cl. 5.

As always, House employees must never be required or coerced to perform campaign duties and past or future campaign service may not be a factor in determining which employees will be deemed essential or non-essential.

Finally, any House staff who wish to undertake non-congressional employment while on furlough are reminded that they remain House employees and, therefore, all rules regarding outside employment remain in effect. Such rules include fiduciary prohibitions and the outside earned income limit for senior staff, and the prohibitions on using House resources or performing work that overlaps or conflicts with one's House duties for all staff.³

While questions regarding pay status and employment procedures should be addressed to the Committee on House Administration or the office of Chief Administrative Officer, as appropriate, the Committee is available to assist offices in considering the implications of the ethics rules, laws, or standards of conduct on your efforts to address the financial needs of your office.

Committee staff will be available during any lapse in appropriations to provide advice to House Members and employees. Please direct questions to the Committee's Advice and Education staff at (202) 225-7103.

³ For additional information, see the chapter "Outside Employment and Income" in the Ethics Manual, at pages 185 to 246.