

January 1, 2009

All Local Chairmen  
UP/Eastern District

Dear Sirs and Brothers:

Attached for your ready reference, is a copy of a form letter, which I suggest that you use, if you have a member who is subject to investigation and or discipline, due to an on-duty personal injury.

The FRA recently made changes to 49 CFR Part 225, Railroad Accident Reporting Regulations. There is a portion of these amended regulations concerned with the issue of harassment and intimidation of employees who report on-duty injuries.

In Section 225.33 FRA states:

"FRA has become increasingly aware that many railroad employees fail to disclose their injuries to the railroad or fail to accept reportable treatment from a physician because they wish to avoid potential harassment from management or possible discipline that is sometimes associated with the reporting of such injuries. FRA is also aware that in some instances supervisory personnel and mid-level managers are urged to engage in practices which may undermine or circumvent the reporting of injuries and illnesses. Railroads must not engage in practices that could manipulate reportability of these accidents."

As you know, Union Pacific routinely holds discipline investigations for employees involved in on-duty injuries. Contrary to Union Pacific's position on this, the purpose of these hearings is not to develop the facts surrounding the injury. The real purpose is to discourage employees from reporting on-duty personal injuries and thus reduce the number of FRA reportable incidents. The above regulations make it clear, that the railroads, or its supervisors, are not to engage in harassment or intimidation to discourage accident reporting by injured employees.

If it becomes apparent that the railroad, or its supervisors, are in violation of these regulations, then both are subject to civil penalties. FRA has stated that it "will be aggressive in pursuing enforcement sanctions against any person found to be in violation" of its harassment and intimidation policy. In my opinion, Union Pacific is routinely in violation of these regulations. It has become a common practice to hold discipline investigations for injured employees.

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All Local Chairmen

If you have an injured member who is notified of a discipline investigation and it can reasonably be argued that the only reason for the investigation is to harass the individual because he/she was injured, write to the Superintendent using the attached form letter. Be sure to send copies of the letter to this office, your local FRA office and to Federal Railroad Administration, Office of Safety Assurance, 400 Seventh Street S.W., Washington, D.C. 20590.

It is very important that we pursue this matter with each individual Superintendent. The railroad must be put on notice that we will not tolerate any more illegal harassment of our members. Accordingly, by requiring the railroad to abide by the FRA regulations concerning harassment and intimidation, we should be able to reduce the amount of discipline investigations for on-duty injuries.

Trusting that you find this information beneficial, I remain, as always,

Sincerely yours,

*Michael Young*

Michael Young  
General Chairman – BLET  
UP / Eastern District

(Date)

Mr. (Name)  
Superintendent of Transportation  
Union Pacific Railroad Company  
(address)  
(city, state and zip)

Dear Mr. (Name):

On (date) Engineer (full name) sustained personal injuries while working (fill in train symbol of assignment) between or at (location and location).

This employee reported the injury as prescribed by Union Pacific Railroad Operating Rules and because of the reporting of this injury and circumstances surrounding the injury it is this committees position the Engineer (name) is being harassed and intimidated by company officers at (location) by holding a discipline investigation and using alleged noncompliance to (rule reference) as an excuse to hold the investigation.

I represent Engineer (name) as the Local Chairman for the Brotherhood of Locomotive Engineers and Trainmen in BLET Division (number) at (location). Engineer (name) requested that I write to you concerning this harassment and intimidation.

This letter is to notify you, Mr. (Superintendent's name) as an officer and superintendent of Union Pacific Railroad, that the railroad's action "violates the harassment and intimidation provisions of the Federal Railroad Administration Regulations, 49 CFR Part 225" and that "a request is hereby made pursuant to those regulations that the Carrier immediately investigate this complaint and take appropriate action against the responsible managers."

Sincerely yours,

(Name) Local Chairman - BLET Division (#)

cc: FRA Offices of Safety Assurance - Washington, DC  
FRA (local/regional office)  
BLET General Chairman M. A. Young