

UNION PACIFIC POLICY AND PROCEDURES FOR ENSURING RULES COMPLIANCE

Effective October 15, 1998

Union Pacific Policies and Procedures for Ensuring Rules Compliance

INTRODUCTION

This policy is effective October 15, 1998 and supersedes previous company discipline policies. This policy embodies significant changes to previous employee discipline policies and is designed to promote counseling, conferencing, training and education as preferred alternatives to formal discipline. These changes are not retroactive.

This policy and prescribed procedures are the result of an extensive collaborative effort involving representatives of management, labor and the FRA. This effort occurred as part of the larger Safety Assurance Compliance Process (SACP) sponsored by the FRA. This new policy, developed through the SACP process, adds two important new elements to the company's procedures for ensuring rules compliance, as follows:

- 1) Discipline Diversion - Includes provisions for coaching, counseling, conferencing and training in lieu of discipline, under certain circumstances.
- 2) Monitoring for responsible management application and overall policy effectiveness.

In addition to these new elements noted above, key revisions have also been made to the UPGRADE Formal Discipline Policy. The goal of these policy changes is to provide the necessary support to ensure both understanding of, and compliance with, the railroads operating rules. All parties to the SACP process agree that operating rules compliance is essential for safe and efficient operation of the railroad. This policy, in addition to enforcing rules compliance, ensures fair and equitable treatment for all employees.

DISCIPLINE DIVERSION PROGRAM

Conferencing, counseling, coaching and education are the desired methods of ensuring rules compliance. Conferencing may be either informal or formal at the discretion of the manager. Managers will be accountable for the fair and consistent application of the Discipline Diversion Program. Employees otherwise subject to formal discipline are eligible for the Diversion Program within the guidelines set forth below:

I. INFORMAL CONFERENCING:

Informal conferencing is encouraged, when appropriate, as a first step in correcting an employee's behavior. Eligibility for informal conferencing will be at the discretion of the manager.

Guidelines for Informal Conferencing are as follows:

- a) The supervisor will use informal coaching and counseling as a tool to correct inappropriate performance. Informal counseling may include education.
- b) An informal conferencing or education session will not be documented as a formal conference and will not be counted as a diversion program opportunity.

There is no policy limitation to the number of times a manager or supervisor may elect to use informal conferencing. When informal conferencing is not considered appropriate formal conferencing will be used, when eligibility requirements are met, and when requested by the employee.

II. FORMAL CONFERENCING:

Employees charged with Level 1 or Level 2 infractions may be diverted from the formal discipline process to a corrective action plan consisting of formal conferencing, counseling, coaching and education as outlined below. When this option is utilized no discipline level is established.

A. Formal Conference at Employee's Request.

Once in any three year period employees charged with a rule violation at levels 1 and 2 are eligible, at the employee's option, to divert from a formal hearing to a formal conference provided:

- a) The employee's current discipline status is Level 0 at the time of the alleged infraction.

B. Formal Conference by Mutual Consent.

Formal Conference may be used at any time in lieu of formal discipline when agreed to by mutual consent of the parties involved.

C. Guidelines for Formal Conferencing

- a) For formal conference, the employee will arrange for union representation and the supervisor will meet with the employee's union representative and the employee to discuss appropriate rules application and provide suitable assistance /education. Formal conferencing will be conducted while the employee is under pay. It is understood that the conference is to be non-accusatory and non-confrontational.
- b) The formal conferencing session will be documented on a form signed by the employee and a copy will be placed in the employee's file. The form will not assign responsibility, however will record a date of occurrence.
- c) If an employee elects formal conferencing diversion in lieu of formal hearing, the conference will consist of the following:

- 1) Discussion of the reason for conference.
- 2) A review of related or associated rules regarding incident being discussed.
- 3) How could incident have been prevented?
- 4) Q & A's and discussion by conference participants.
- 5) Review standing in diversion program.
(Copy of diversion plan given to employee, current standing in program).
- 6) If appropriate, offer opportunity to enter "education program".
(Voluntary and not recorded as an education option opportunity).
- 7) Review conference form to be signed.
- 8) Note any suggestions to conference procedure.
(How can program be improved?)

III. TRAINING / EDUCATION:

Employees charged with Level 3 or 4 infractions may be diverted from the formal discipline process to a formal education/training plan (C.O.R.E) under certain conditions as outlined below. When this option is utilized no discipline level is established.

A. Training / Education at Employee's Request

Employees charged with Level 3 or Level 4 infractions are eligible, at the employee's request, to divert from a formal hearing to a formal education plan in lieu of disciplinary action provided:

- 1) Employee has not exercised the education option within the preceding 8 years.
- 2) There is an enabling agreement in effect with the employee's representative labor organization.

B. Training / Education by Mutual Consent

Employee may be diverted to formal education in lieu of, or in combination with, formal discipline at any time when mutually agreed to by Superintendent (or equivalent) or his representative, the employee and the employee's labor representative provided:

- 1) There is an enabling agreement in effect with the employee's representative labor organization.

In either case the formal education session will be recorded on a form signed by the employee and a copy will be placed in the employee's file. The form will not assign responsibility, however it will record a date of occurrence and the corresponding level for retention purposes only.

The employee and his/her Union Representative will meet with the Service Unit Superintendent or designee to conference or schedule entry into the education program.

Note: The Formal Discipline Policy will recognize a Level 4 diversion as a Level 4 violation for the purpose of assessing discipline in the event that the employee is found guilty of committing a subsequent Level 4 violation within 24 months following the date of the first Level 4 occurrence.

DISCIPLINE MONITORING PROCESS

Note: The process prescribed herein is in no way intended to circumvent or supersede any appeal process provided for in schedule labor agreements.

A. Scope:

Management will be held accountable for ensuring the proper and fair application of all disciplinary policies and/or actions. Specific problems regarding improper application and/or misuse of any portion of the disciplinary process will be monitored and resolved through the procedures outlined below.

B. Discipline Monitoring Process:

1. Quarterly reviews, by request of either party, will be held between local Union Representatives and Superintendents (or equivalent) to discuss the discipline process and:
 - a. Review discipline applied for consistency, fairness, etc.
 - b. Issues discussed will be documented.
 - c. Problem areas identified will be handled by the Superintendent with the Manager and made part of the “Values” portion of the Manager’s Performance Review (PDR).
 - d. Additionally, when indicated, such Managers will be retrained in the proper administration of the disciplinary process.
2. If not satisfied with the results of the above described quarterly review, the Union Representative may escalate issues in question to the General Chairman/Vice President level. If, at this level of handling, the Superintendent is determined to have taken either no or inappropriate corrective action, this fact will be reflected in the “Values” portion of both the Manager’s and Superintendent’s PDR.
3. The database or program, currently used to track all disciplinary related information, will be modified so as to include the name of the Manager who initiates disciplinary action.

MEASURING EFFECTIVENESS

To ensure that the discipline policy is meeting its stated goals and likewise being fairly administered, Senior Management will conduct semi-annual reviews of the administration and

effectiveness of the discipline policy as part of the overall safety and rules compliance effort

Labor Representatives of the SACP Culture Work Group/Discipline Sub-Group will be included in these periodic reviews.

Measures for review will include the number of discipline cases, including conferencing and training in lieu of formal discipline, personal injuries, human-factor caused accidents, and any other similar measures deemed to provide insight into policy effectiveness.

This is considered a vital element of the overall policy as it ensures that policy effectiveness is evaluated by objective means. It similarly affords the opportunity for any systemic issues that might detract from the policy's effectiveness to be readily identified and brought to the attention of Senior Management. Any such process issues presented for resolution will then be reviewed by Senior Management and corrective action taken when considered appropriate.

FORMAL DISCIPLINE POLICY - UPGRADE

FORMAL DISCIPLINE GUIDELINES:

- 1) All collective bargaining agreements apply.
- 2) When practicable, incidents involving possible rule violations, except certain Level 5 violations, should be reviewed with the Employee to determine whether sufficient cause exists prior to proceeding to a formal hearing or waiver offer, as appropriate.
- 3) Employees must be allowed the opportunity to discuss waivers of formal hearing with union representation when considering whether to waive or proceed with hearing.
- 4) Managers are strongly encouraged to use informal counseling with Employees when appropriate.
- 5) Employees first entering the Formal Discipline system enter at Level 0. Thereafter, all formal discipline is determined using the Discipline Assessment Table and Progressive Discipline Table following procedures described herein.
- 6) Current Formal Discipline Status corresponds to the most recent level of discipline assessed, begins with the date of the incident prompting the disciplinary action, and remains the status for the retention period specified below. If there is no further disciplinary action within the retention period specified, the status reverts to Level 0 for future reference.

| <u>LEVEL</u> | <u>RETENTION PERIOD</u> |
|--------------|-------------------------|
| 1 | 6 Months |
| 2 | 12 Months |
| 3 | 18 Months |
| 4 | 24 Months |

NOTE 1: Employees who are assessed Level 4 by virtue of a single incident will have their status reduced to Level 3 after a 6-month period from the date of the incident if there is no further disciplinary action during that period. However, if an employee commits two Level 4 infractions within a 24-month period, the discipline will be assessed at Level 5. (This INCLUDES employee's who have previously opted for C.O.R.E. Diversion Training in lieu of Level 4 Discipline within the preceding 24 months).

7) Existing policy and procedures pertaining to Rule 1.5 violations shall continue to be followed and such cases shall be considered Level 5 violations. Employees returning to service through the Employee Assistance Program (EAP) after a first offense for Rule 1.5 will revert to the discipline status in effect prior to the Rule 1.5 dismissal.

8) Corrective Action Plans, including C.O.R.E training when appropriate, are required for all Employees assessed discipline at Levels 2-4.

9) FRA Engineer Certification Requirements, with regard to suspension of certificate for certain rules infractions, are not preempted by this Policy.

10) The Regional Vice President, equivalent senior manager, or their designated representative will be consulted before an Employee is charged with a Level 5 offense, other than for Rule 1.5. Dismissal for Level 5 offenses, except for Rule 1.5, will be only with the concurrence of the Vice President or equivalent..

11) Discipline cases for Level 5 violations will be reviewed for consistent policy application by an Executive Committee consisting of representatives from Human Resources, Labor Relations and the employing department. The Executive Committee may authorize exceptions to this Policy when unusual circumstances warrant.

12) When an employee is returned to service from Level 5 dismissal on a leniency basis (for other than Rule 1.5) as the result of an arbitration award or labor relations department initiative, the employee will be returned at Status Level 3 provided:

a) The employee voluntarily agrees to take part in up to a 30 day (maximum) paid corrective action plan agreed to by the local manager and the employee's union representative.

b) This corrective plan include, but not be limited to, training and education pertinent to safety. rules compliance and orientation to local operations.

GUIDE TO DETERMINING DISCIPLINE LEVEL

Step 1 - Determine the primary (highest level) alleged rule violation. Step 2 - Complete the Discipline Calculation Worksheet as follows:

a. Specify the rule(s) violation(s) in Section One.

b. Check or list the applicable rule(s) or policy publications in Section One.

c. Determine the level of the alleged rule infraction by reviewing the Discipline Assessment Table. Locate the Discipline Level corresponding to the company rule and complete Section Two.

d. Obtain the Employee's current discipline status and/or history from the PINS database in IMSOMH (PNXO34) and complete Section Three.

1) For Level 1 or 2 violations: review the Discipline History for 24 months or, for former SP employees to June 1, 1997, whichever is less.

2) For Level 3 or 4 violations: review Discipline History for 24 months in all cases.

3) Apply the Discipline Level Retention Periods from the Policy Guidelines (Level 1 = 6 months; Level 2 = 12 months, etc.) to the most recent entry in the discipline record to determine whether the status reflected remains in effect for current consideration. For example: A Level 1 status with an incident date over 6 months prior would no longer be considered. A Level 2 Status with incident date 10 months prior would still be in effect. When the review period includes history prior to the effective date, apply the Discipline Assessment Table to the highest level violation contained in the Discipline History within the review period. Discipline History Prior to the Employee's Effective Date will be assigned a status no greater than Level 3.

e. Utilizing the Progressive Discipline Table and the information from Sections Two and Three , complete Section Four - A.

f. Determine whether the infraction resulted in property damage greater than \$150,000 requiring the next higher level of discipline. Complete Section Four - B.

This is the Level of Discipline required for the infraction.

GLOSSARY

The following definitions, while not all inclusive or absolute, are intended to guide the determination of whether various acts by Employees meet necessary criteria to be considered a violation of applicable Level 5 Rules.

ALTERCATION: When an Employee's actions cause or result in a vehement quarrel characterized by physical activity such as pushing, shoving, or fighting.

CARELESS OF SAFETY: When an Employee's actions demonstrate an inability or an unwillingness to comply with safety rules as evidenced by repeated safety rules infractions. When a specific rule(s) infraction demonstrates a willful, flagrant, or reckless disregard for the safety of themselves, other employees, or the public.

DISHONEST: When an Employee's actions or statements constitute lying, cheating, or deceiving the Company.

FRAUD: When an Employee's actions or statements are an intentional misrepresentation of fact for the purpose of deceiving others so as to secure unfair or unlawful gain.

IMMORAL: When an Employee's actions are contrary to commonly accepted moral principles.

INSUBORDINATION: When an Employee's actions or statements indicate a refusal (as opposed to a failure for cause) to carry out the instructions of a supervisor which are work, safety or policy-related and which conform to accepted Company and industry practice, or when an employee demonstrates gross disrespect towards a supervisor.

NOTE: Any failure to comply with Union Pacific's Drug and Alcohol Policy will be considered insubordination.

QUARRELSOME: When an Employee's continued behavior is inclined or disposed toward an angry verbal confrontation with others in the work place.

THEFT: When an Employee's action is intended to and/or results in the taking and/or removing of property or other items of value from the Company, its customers, or other Employees without proper authority.