

**Policy for Employee Performance Accountability**



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Effective February 1, 2013

## **Statement of Principles**

Our vision is to realize the tremendous potential of BNSF by providing transportation services that consistently meet our customers' expectations. By working together, we at BNSF can realize this vision. As a member of the BNSF community, each of us also has the right to work safely and the responsibility to ensure a safe operation for ourselves, our co-workers, our customers and the communities we serve.

This Policy for Employee Performance Accountability (PEPA) supports BNSF's vision of becoming injury and accident free by encouraging all employees to demonstrate safe work behaviors and ensure a safe work environment.

Rules compliance is essential to a safe operation, and we expect everyone at BNSF to consistently comply with our safety and operating rules. For those rare cases where an employee shows a marked disregard for BNSF rules, procedures and safety, this Policy provides a process to enforce BNSF and federal safety requirements.

This Policy is intended to address rule and policy violations in a consistent and fair manner so that every member of the BNSF community has an equal opportunity to achieve his or her full potential.

## **General Information**

1. If this Policy conflicts with BNSF's other policies, guidelines or agreements, they may take precedence over this Policy.
2. Craft specific attendance requirements are governed by departmental policies and guidelines.
3. A record suspension is only recorded on an employee's personal record; it is not actually served. If warranted, an actual suspension can be imposed.
4. The review periods described in this Policy begin on the date discipline is assessed.

**Note:** Only time in service is credited toward a review period.

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## Categories of Discipline

### **I. Standard Violations**

A Standard violation is a violation which does not subject an employee or others to potentially serious injury or fatality and does not meet other criteria for a Serious or a Stand Alone Dismissible violation, as provided herein. An employee may be subject to dismissal for a pattern of Standard violations described below.

#### **A. Progression:**

Standard violations will be progressed as follows:

- The first Standard violation will result in a formal reprimand with a 12 month review period (as described below).
- A second, third and fourth Standard violation within the 12 month review period will result in record suspensions of 10, 20, and 30 days, respectively. A fifth Standard violation (or fifth violation of any kind, including violations of departmental attendance guideline policies) committed in the 12 month review period may result in dismissal.

#### **B. Review Period:**

The review period for a Standard violation begins on the date discipline is assessed and expires 12 months later. As noted, a fifth Standard violation (or fifth violation of any kind) committed in the 12 month review period may result in dismissal.

**Example:** Assume an employee commits a standard violation on January 10, 2013, and the discipline is assessed on January 25, 2013. Assume the employee commits 3 more standard violations in 2013 (e.g. one in March, one in April, and one in May). Finally, assume the employee commits a 5<sup>th</sup> standard violation on January 20, 2014. The employee *would stand for dismissal* under this example because he/she *committed the 5<sup>th</sup> violation during the 12 months following the assessed discipline date of the first violation above, January 25, 2013.*

By contrast, assume the 5<sup>th</sup> violation in the example above wasn't committed on January 20, 2014, but rather was committed 10 days later on January 30, 2014. In this instance, the employee *would not stand for dismissal* because the first standard violation review period had expired 5 days earlier, on January 25, 2014 (i.e. 12 months from the assessed discipline date of January 25, 2013).

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## II. Serious Violations

A non-exhaustive list of Serious violations is provided in Appendix A.

### A. Progression:

The first Serious violation will result in a 30-day record suspension and a review period of 36 months. Exception: Employees qualify for a reduced review period of 12 months if they demonstrate a good work record, defined as having at least 5 years of service and having been discipline-free during the five years preceding the date of the violation in question.

A second Serious violation committed within the applicable review period may result in dismissal.

### B. Review Period:

The review period for a Serious violation begins the date the discipline is assessed and expires after 36 months of service (or 12 months if qualifying as referenced above).

Example: An employee commits a Serious violation on January 1, 2013, and is issued a Level S 30-day record suspension with a three year review period on February 1, 2013. Under this scenario, the review period would run to February 1, 2016. However, if the employee takes a one year leave of absence (from January 1, 2014 to December 31, 2014), the Serious violation review period would run to February 1, 2017, since only time in service is credited towards completion of the review period.

## III. Stand Alone Dismissible Violations

A non-exhaustive list of Stand Alone Dismissible violations is provided in Appendix B; the violations identified in Appendix B may result in immediate dismissal.

### Discipline Review

Supervisors must consult with the Director of Employee Performance prior to issuing a dismissal, actual suspension, or deviation from this Policy. Such cases will be reviewed by senior team leaders as part of BNSF's PEPA Review Board.

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## Appendix A

The following is a non-exhaustive list of Serious Violations.

### **Serious Violations**

- 1) Violation of any work procedure that is designed to protect employees, the public and/or others from potentially serious injury(ies) and fatality(ies). Many of the Serious violations are identified in the various departmental policies, including but not limited to, Telecom's Essentials, Engineering's Critical Decisions, Mechanical's Safety Absolutes and TY&E's Deadly Decisions
- 2) Operating rule violation for which FRA decertification is also mandated (also considered a Serious violation for ground crew, if applicable)
- 3) First violation of Rule 1.5 (former Rule G) [subject to conditional suspension, pending EAP evaluation, as described in BNSF's drug and alcohol policy]
- 4) Unauthorized absence
- 5) Tampering with safety devices
- 6) EEO policy infractions
- 7) Failure to timely report a DWI conviction (where required to do so)
- 8) Late reporting of accident or injury. **Note:** Employees will not be disciplined for "late reporting" of muscular-skeletal injuries, as long as the injury is reported within 72 hours of the probable triggering event, the employee notifies the supervisor before seeking medical attention, and the medical attention verifies that the injury was most likely linked to the event specified.

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## **Appendix B**

The following is a non-exhaustive list of violations which may result in immediate dismissal.

### **Stand Alone Dismissible Violations**

- 1) Theft or any other fraudulent act, which may be evidenced by the intent to defraud BNSF or by the taking of BNSF monies or property not due
- 2) Dishonesty about any job-related subject including, but not limited to, falsification or misrepresentation of an injury, abuse of FMLA and/or other leave privileges
- 3) Conduct leading to a felony conviction. This includes any plea of guilty, deferred adjudication, and/or any plea which results in a felony conviction where sentencing is delayed or suspended, or the felony conviction is subsequently modified or reduced.
- 4) Refusal to submit at any time to required testing for drug or alcohol use, adulteration of sample, second violation of Rule 1.5 (former Rule G), second positive test within 10 years, or failure to comply with instructions of the Medical Director
- 5) Violence in the workplace or instigation of a serious altercation. This includes possession of weapons and the threat of using weapons.
- 6) Conscious or reckless indifference to the safety of themselves, others or the public; indifference to duty; intentional destruction of company property; malicious rule violation; insubordination
- 7) Rule violation that could result in serious collision and/or derailment, serious injury to another employee or the general public, fatality, or extensive damage to company or public property
- 8) Extended unauthorized absence
- 9) Aggravated EEO policy infractions
- 10) Failure to report accident or injury
- 11) Multiple Serious violations committed during the same tour of duty