

# **TRRA Performance Management and Accountability Policy**

REVISED January 1, 2023

## **Purpose**

The professional development and well-being of all employees is a critical element in TRRA's success. Most employees do their jobs in a professional manner, day in and day out. All employees are valued members of the TRRA team and must be treated with respect and fairness.

This policy is designed to provide everyone an opportunity to improve and grow through a measured, open, and just process. The Company's rules must be adhered to by all employees if we are to avoid injuries, deaths, and substantial financial losses. Violations of Company rules must therefore be addressed in an appropriate and effective manner.

## **Responsibilities**

All TRRA employees are expected to be safe, conscientious, and dependable; to comply with rules; and display a positive attitude toward teamwork and Company objectives.

TRRA intends to continue to provide a safe work environment in which all employees can experience meaningful work and contribute to the success of the team. Managers must provide fair and consistent treatment to all employees under their charge, using alternatives to formal discipline if appropriate.

## **General Guidelines**

Incidents that are considered Minor Infractions will be subject to handling in accordance with procedures described in Part I of this policy.

Incidents of a more serious nature will be subject to handling prescribed in Parts II and III of this policy. Examples listed in Parts II and III are illustrative only, and not intended to limit appropriate handling for other serious offenses that may warrant corrective or disciplinary action, including dismissal.

The review periods described in this Policy begin on the date discipline is assessed. Unless actual time off for discipline is served; then the review period begins on the first day the employee returns to duty.

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.

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

## **PART I: MINOR INFRACTIONS**

Minor Infractions are defined as rule violations that do not result in derailment, damages to equipment, or subject an employee or others to potentially serious injury or fatality, and that are not otherwise identified as “Serious Rule Violations” or “Major Rule Violations” in Part II or III of this policy.

These guidelines address cumulative behavior. A Minor Infraction is one that is neither “Serious Rule Violation” (as defined herein) nor “Major Rule Violation” (as defined herein). An employee who demonstrates a pattern of (non-aggravated) misconduct may ultimately be dismissed if performance does not improve. Serious Rule Violations will be handled according to more stringent principles. The main concern is with repetitive behavior. Repeated violations of the rules may require more focused intervention with each succeeding offense.

**Progressive handling of Minor infractions will be pursuant to the following:**

- **First two Minor Infractions** will be handled with informal corrective instruction with a 12-month review period, as described below.
- **A third, fourth, and fifth Minor infraction within the 12-month review period will result in record suspensions up to 10, 20, and 30 days, respectively.**
- **A sixth Minor infraction (or sixth violation of any kind, including attendance policy violations), committed in the 12-month review period may result in dismissal.**
- **A third repetitive Minor offense within a rolling 12-month period is considered a serious offense.**

*Minor Infractions greater than twelve months old will not be considered when determining the application of discipline.*

### Review Period:

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

**Example:** Assume an employee commits a minor violation on January 10, 2019, and the discipline is assessed on January 25, 2019. Assume the employee commits 4 more minor violations in 2019. Finally, assume the employee commits a 6<sup>th</sup> minor violation on January 20, 2020. The employee would stand for dismissal under this example because he/she committed the 6<sup>th</sup> violation during the 12 months following the assessed discipline date of the first violation above, January 25, 2019.

By contrast, assume the 6<sup>th</sup> violation in the example above wasn't committed on January 20, 2020, but rather was committed 10 days later on January 30, 2020. In this instance, the employee would not stand for dismissal because the first minor violation review period had expired 5 days earlier, on January 25, 2020 (12 months from the assessed discipline date of January 20, 2019). However, if an employee takes a leave of absence during the review period, the review period will be extended by the amount of time the employee is absent.

## **PART II: *SERIOUS RULE VIOLATIONS***

This part of the policy describes the corrective action prescribed for a Serious Rule Violation. A single Serious Rule Violation will not be considered sufficient to warrant dismissal. However, suspension and/or retraining may be appropriate depending upon circumstances. Subsequent Serious Rule Violations within a twenty-four (24) month period will be handled progressively.

The following is a non-exhaustive list of serious violations. Serious offenses include all train accidents resulting in a derailment, or damages to equipment, or personal injury.

Other Examples of Serious rule violations:

- Positive protection
- Coordination between crews working in the same and adjacent tracks
- Distance to go communication
- Mounting and dismounting moving equipment
- Crossing over or riding the lead end of a car being shoved
- EEO policy infractions
- Fouling track and going between cars
- Interfering with safety device or equipment
- Fall protection
- Handling switches
- Missed call, failure to report for duty, or refusal to work (mark off on call)
- Leaving/placing equipment in the foul of other tracks
- Working on or around equipment
- On track safety
- Any action resulting in a FRA violation or defect
- Unauthorized use of a personal and/or company electronic device
- Failure to timely report DWI conviction (where required to do so)
- Operating rule violation for which FRA decertification is also mandated (also considered serious violation for ground crew, if applicable)
- First violation of rule 1.5 (subject to conditional suspension, pending EAP, SAP, or DAC evaluation, as described in TRRA's drug and alcohol policy)
- Any other serious violation of General Code of Operating Rules, Maintenance of Way rules, Safety Rules, Dispatcher Rules, General Instructions, or other rules issued to employees.

**Progressive handling of Serious Rule Violations will be pursuant to the following:**

- **First Serious Rule Violation** Results in discipline up to a 30-day record suspension and a review period of 24 months. Exception: Employees qualify for a reduced review period of twelve (12) months if they demonstrate a good work record, defined as having at least five years of service and having been discipline free during the five years preceding the date of the violation in question.
- **Second Serious Rule Violation** within the applicable review period may result in dismissal.

**Review Period:**

The review period for a serious violation begins the date the discipline is assessed and expires after 24 months of service (or 12 months if qualifying as referenced above).

Example: An employee commits a Serious violation on January 1, 2019 and is issued a 30-day record suspension with a 24-month review period on February 1, 2019. Under this scenario, the review period would run to February 1, 2021. However, if an employee takes a leave of absence during the review period, the review period will be extended by the amount of time the employee is absent.

### **Part III: MAJOR RULE VIOLATIONS**

Major offenses are those that warrant removal from service pending a formal hearing and possible dismissal from service for a single occurrence if proven responsible.

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

- Dishonesty
- Late report of an on-duty injury
- Extended unauthorized absence
- Unauthorized absence beyond the period specified in the self-terminating clause of the applicable schedule agreement
- Sleeping while on duty
- Theft or any other fraudulent act
- Conduct leading to a felony conviction. This includes any plea of guilty, plea of no contest, 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.
- Insubordination
- Refusal to submit at any time to required testing for drug or alcohol use, adulteration of sample, second violation of Rule 1.5, second positive test, or failure to comply with instructions of the EAP, SAP, or DAC
- Weapons on the property
- Violence in the workplace or instigation of a serious altercation
- Aggravated EEO Policy infractions
- Excessive speeding (speed at or above FRA levels for Engineer decertification)
- Passing stop signals without authority
- Occupying track without authority
- Blue flag violations
- Major accidents
- Failure to take appropriate action to protect the safety of field personnel or the public
- Multiple serious violations committed during the same tour of duty
- Acts of blatant disregard for the rights of the employees or the company
- Acts that recklessly endanger the safety of employees or the public

*This policy assumes that a fair and impartial hearing under the terms of the applicable labor agreement has been conducted and the employee is found to be at fault; or, a waiver was exercised under the applicable labor agreement and the employee accepted responsibility. The actual length of suspension will be based upon the nature of the violation, the employee's record, and taking into consideration the employee's willingness to accept responsibility. At the discretion of the Management, the employee may be offered the opportunity for additional training for up to one-half of the time actually suspended.*

## **PART IV: FRA DECERTIFICATION EVENT**

Notwithstanding anything else in this policy, if an incident is covered by the FRA certification regulations, the involved employee is subject to those regulations and must satisfy the federally mandated revocation time period. Based upon the employee's record, acceptance of responsibility, and the employee's work history, Management may elect, with the employee's consent, to provide additional training, consistent with the requirements of 49 CFR, Part 240 or 242.

## **PART V: PERSONAL INJURY HANDLING**

There will be no formal hearings solely to investigate an individual's personal injury. Formal hearings may be held to address rule violations resulting in harm to persons. The Performance Management and Accountability Policy outlined herein sets forth the manner in which rules violations are to be addressed. An employee shall not be disciplined for an injury and an employee's injury record will not be considered in addressing the appropriate discipline for a rule violation.

All personal injuries must be reported to the appropriate supervisor at the time of occurrence prior to leaving the property on the day of occurrence so that prompt medical treatment may be provided and unsafe conditions can be promptly addressed. (Exception: An employee departing the property to obtain urgent medical attention for a serious injury must report the injury to a supervisor as soon as practicable.)

Failure to adhere to these reporting procedures will subject the employee to appropriate handling under the PMAP, up to the level of a Major Rule Violation.

*No provision of this policy shall be applied or interpreted inconsistent with federal or state law.*



## **Quick Reference Table**

### **Minor Infractions**

<b>Definition</b>	Minor Infractions include all rule violations that do not result in derailment or damages to equipment, and that are not otherwise identified as “Serious” or “Major” in Parts II or III of this policy.
<b>Progression</b>	1 &2 – Informal Corrective Instruction 3 – up to 10 days record suspension 4 - Up to 20 days record suspension 5 - Up to 30 days record suspension 6 - Up to dismissal (Third repetitive minor in 12 months results in a Serious)
<b>Time Frames</b>	Twelve (12) month period

### **Serious Rule Violations**

<b>Definition</b>	Serious Rule Violations include rule violations that result in derailment or damages to equipment, and any rule violations or other incidents noted in Part II of this policy
<b>Progression</b>	1 - Up to 30 days record suspension 2 - Up to dismissal
<b>Time Frames</b>	Twenty-four (24) month period Exception: Employees qualify for a reduced review period of twelve (12) months if they demonstrate a good work record, defined as having at least five years of service and having been discipline free during the five years preceding the date of the violation in question

### **Major Rule Violations**

<b>Definition</b>	<ul style="list-style-type: none"><li>- Major Accidents</li><li>- Excessive speeding</li><li>- Conduct</li><li>- Stop signal violations</li><li>- Blue flag protection</li><li>- Track Authority</li><li>- Other severe offenses</li></ul>
<b>Progression</b>	Possible removal from service - up to dismissal