
RULE 21 – DISCIPLINE AND INVESTIGATION

- a. Except as provided in paragraph “c,” no Passenger Engineer will be disciplined, suspended or dismissed from the service until a fair and impartial formal investigation has been conducted by an authorized Corporation officer.

Note: An officer of a foreign railroad may properly conduct the formal investigation into discipline matters involving Amtrak Passenger Engineers on such foreign railroad territory, but an Amtrak officer will be present to assure compliance with Rule 21.

- b. 1. Except when a serious act or occurrence is involved, a Passenger Engineer will not be held out of service in disciplinary matters before a formal investigation is conducted. A serious act or occurrence is defined as: Rule “G”, Insubordination, Extreme Negligence, Stealing.
2. If a Passenger Engineer is held out of service before a formal investigation for other than a serious act or occurrence, he will be paid for what he would have earned on his assignment had he not been held out of service beginning with the day he is taken out of service and ending with the date the decision is rendered or he is returned to service, excluding the day of the formal investigation, whether or not he is disciplined. Holding a Passenger Engineer out of service before a formal investigation or paying him for being out of service for less than a serious act or occurrence is not prejudging him.
- c. Formal investigations, except those involving a serious act or occurrence, may be dispensed with should the Passenger Engineer involved and/or the duly accredited representative and an authorized officer of the Corporation, through informal handling, be able to resolve the matter to their mutual interests. Requests for informal handling must be made at least 24 hours before a formal investigation is scheduled to begin. No formal transcript, statement, or recording will be taken at the informal handling. When a case is handled informally and the matter of responsibility and discipline to be assessed, if any, is resolved, no formal investigation will be required. A written notice of the discipline assessed and the reason therefore will be issued to the Passenger Engineer responsible, with a copy to the duly accredited representative if he participated in the informal handling, at the conclusion of the informal handling. Discipline matters resolved in accordance with this paragraph are final and binding.
- d. 1. A Passenger Engineer directed to attend a formal investigation to determine his responsibility, if any, in connection with an act or occurrence will be notified in writing within seven days from the date of the act or occurrence or in cases involving stealing or criminal offense within seven days from the date the Corporation becomes aware of such act or occurrence¹. The notice will contain:

¹ Where employees have self-reported a close call event or condition to NASA, the time limits applicable to the progression of any charges stemming from the event as described in the Confidential Close Call Reporting System Implementing Memorandum of Understanding (C3RS/IMOU) dated May 11, 2010 (see Appendices), are to be held in abeyance pending final

- A. The time, date and location where the formal investigation will be held.
 - B. The date, approximate time and the location of the act or occurrence.
 - C. A description of the act or occurrence which is the subject of the investigation and rules which may be involved.
 - D. A statement that he may be represented by his duly accredited representative.
 - E. The identity of witnesses directed by the Corporation to attend.
2. When a letter of complaint against a Passenger Engineer is the basis for requiring him to attend the formal investigation, the Passenger Engineer will be furnished a copy of the written complaint together with the written notice for him to attend the investigation.
- e. 1. The investigation must be scheduled to begin within seven days from the date the Passenger Engineer received notice of the investigation.
2. A Passenger Engineer who may be subject to discipline will have the right to have present desired witnesses who have knowledge of the act or occurrence, to present testimony, and the Corporation will order employee witnesses to be in attendance.
3. The time limit is subject to the availability of the principal(s) involved and witness(es) to attend the formal investigation and may, by written notice to the Passenger Engineer involved, be extended by the equivalent amount of time the principal(s) involved or necessary witness(es) are off duty due to sickness, temporary disability, discipline, leave of absence or vacation.

When a Passenger Engineer is being held out of service for a serious act or occurrence pending the investigation and other principal(s) or witness(es) are not available for the reasons cited, he may request commencement of the investigation. If either the Passenger Engineer or the Corporation officer is of the opinion that the testimony of the unavailable principal(s) or witness(es) is necessary for the final determination of the facts and discipline has been assessed against the Passenger Engineer as a result of the investigation, such discipline will be reviewed when the testimony of the missing principal(s) or witness(es) is available.

4. When a formal investigation is not scheduled to begin within the time limit as set forth in this Rule, no discipline will be assessed against the Passenger Engineer.
5. A Passenger Engineer who may be subject to discipline and his duly accredited representative will have the right to be present during the entire investigation. Witnesses may be examined separately but those whose testimony conflicts will be brought together.

acceptance or rejection of their report. Upon presentation of the NASA close call report receipt to the charging officer, any pending charges for a covered event or condition will be destroyed (see Appendices: C3RS Discipline Agreement).

- f. When a Passenger Engineer is assessed discipline, a true copy of the investigation record will be given to the Passenger Engineer and to his duly accredited representative with the notice of discipline.
- g.
 - 1. If discipline is to be imposed following a formal investigation, the Passenger Engineer to be disciplined will be given a written notice of the decision within 10 days of the date the formal investigation is completed, and at least 15 days prior to the date on which the discipline is to become effective, except that in cases involving serious acts or occurrences, discipline may be effective at any time.
 - 2. When a Passenger Engineer is required to perform service during a period of suspension, the balance of said suspension will be eliminated.
- h.
 - 1. When a Passenger Engineer or his duly accredited representative considers the discipline imposed unjust and has appealed the case in writing to the Labor Relations officer having jurisdiction within 15 days of the date the Passenger Engineer is notified of the discipline, the Passenger Engineer will be given an appeal hearing. Dismissal cases involving claims for time lost will be handled in accordance with the provisions of paragraph “k”.
 - 2. The hearing on an appeal, if requested, will be granted within 15 days of the Labor Relations officer’s receipt of the request for an appeal hearing.
 - 3. Except when discipline assessed is dismissal, or when a Passenger Engineer has been held out of service under paragraph “b” and assessed discipline, this appeal will act as a stay in imposing the discipline until after the Passenger Engineer has been given an appeal hearing.
 - 4. At appeal hearings, a Passenger Engineer may, if he desires to be represented at such hearings, be accompanied by his duly accredited representative.
 - 5. The Labor Relations officer having jurisdiction will advise the Passenger Engineer of the decision, in writing at the conclusion of the appeal hearing, with a copy to the duly accredited representative. If the decision is to the effect that the discipline will be imposed, either in whole or for a reduced period, the stay referred to in paragraph “h3” will be lifted, and the discipline will be effective on the day following the day of the appeal hearing.
- i. If a decision rendered by the Labor Relations officer is to be appealed, the General Chairman must, within 60 days after the date the decision is rendered by the Labor Relations officer, make an appeal in writing to the highest appeals officer of the Corporation requesting either that he be given a written response or that the case be held in abeyance pending discussion in conference with the highest appeals officer of the Corporation. When a written response is requested, the highest appeals officer of the Corporation will give written notification of his decision to the General Chairman within 60 days after the date of his receipt of the appeal. When a request is made for the case to be held in abeyance pending discussion in conference, the conference will be arranged within 60 days after the highest officer of the Corporation receives the request for a conference. The highest appeals officer of the Corporation will give written notification of his decision to the General Chairman within 60 days after the date of the conference.

- j. The decision of the highest appeals officer of the Corporation will be final and binding unless, within 60 days after the date of the written decision, that officer is notified in writing that his decision is not accepted. In the event of such notification, the decision on a case involving other than dismissal is still final and binding, unless the case is submitted to a tribunal having jurisdiction pursuant to law within one year computed from the date the decision was rendered.
- k. Expedited Procedure for Handling Dismissal Cases.
 - 1. When a Passenger Engineer is dismissed, his case may be given expedited handling by his General Chairman to a Special Board of Adjustment, which will meet in Philadelphia, PA, and be composed of three members:
 - A. A representative of the Brotherhood of Locomotive Engineers.
 - B. The highest appeals officer of the Corporation or his designated representative.
 - C. A neutral member selected by the parties.

In the event the parties are unable to agree upon a neutral member, they will request the National Mediation Board to appoint a neutral. Such Special Board will be established pursuant to Public Law 89-456 89th Congress, H. R. 706 June 20, 1966, within 30 days of the effective date of this Agreement.

- 2. Before invoking the services of the Special Board of Adjustment, the General Chairman must, within 30 days after the date of a notice of dismissal, appeal the case in writing directly to the highest appeals officer of the Corporation.
- 3. In the written appeal, the General Chairman should either request a conference or waive the conference and request a written decision. When a conference is requested, a meeting date will be arranged as promptly as possible but not later than 30 days after the highest appeals officer of the Corporation receives the request. The highest appeals officer will render a decision in writing to the General Chairman as promptly as possible, but no later than 15 days after the date the case is discussed in conference. When a written decision is requested, the highest appeals officer of the Corporation will render a decision in writing to the General Chairman as promptly as possible, but not later than 30 days after the date the appeal is received.
- 4. The decision of the highest appeals officer of the Corporation will be final and binding unless, within 30 days after the date the General Chairman receives the decision, the General Chairman notifies the highest appeals officer of the Corporation in writing of his desire to submit the case to the Special board of Adjustment. After the highest appeals officer of the Corporation receives such notification, the Board will be convened as promptly as possible. The Board will render a final and binding decision as promptly as possible, but not later than 30 days after the case is presented before the Board.
- 5. Claim for time lost will be waived in any dismissal case which the Organization does not progress under the Expedited Procedure for Handling Dismissal Cases. This will not preclude the Organization for progressing such a case to a tribunal having jurisdiction

pursuant to law without regard to any time limits in this Rule. The progression of such a case will not be considered a request for leniency.

- l. 1. Time limits provided for in this Rule may be extended or waived by agreement in writing between the applicable officer of the Corporation and the Passenger Engineer's General Chairman or duly accredited representative.
 2. If discipline assessed is not appealed within the time limits set forth in this Rule or as extended, the decision will be considered final, except as provided in paragraph "k5". If the decision on the appeal is not rendered within the time limits set forth in this Rule or as extended, the discipline assessed will be expunged.
- m. When notification in writing is required, personal delivery or proof of mailing within the specific time limit will be considered proper notification.

Q & A's – RULE 21 – DISCIPLINE AND INVESTIGATIONS

- Q1. What is meant by the term "Corporation" as used in paragraph (d) (1) relating to cases involving stealing or criminal offense?
- A1. General Superintendent involved. **Agreed: 6/23/83**
- Q2. Does paragraph (h)(5) require that the employee and his representative will have a decision in writing when they leave the officer after an appeal hearing on discipline?
- A2. Yes, unless mutually agreed to otherwise. **Agreed: 6/23/83**
- Q3. What pay will a Passenger Engineer be entitled to if found not guilty as a result of a disciplinary investigation? (BLE 3/22/83)
- A3. When discipline assessed as a result of a formal investigation is subsequently expunged, an engineer who has incurred wage loss shall be paid for such wage loss incurred. When discipline assessed is subsequently reduced, an engineer who has incurred wage loss shall be paid for such wage loss during any period not part of the final discipline assessment. **Agreed: 6/23/83**