

**This notice applies to all unionized employees of Canadian Pacific Railway Corporation in Canada and its subsidiaries in the United States, namely, Soo Line Railroad Company, Dakota, Minnesota & Eastern Railroad Corporation and Delaware & Hudson Railway Company, Inc.**

In an effort to improve accountability, safety/education, and performance while fostering a more positive working relationship with employees, we believe accountability should focus on **Major/Life Threatening Offences, Non-Major offences** and **Attendance**. In this regard, **on a trial basis over the next 12 months, in certain circumstances, we will also include the use of demerits in addition to** educational letters, suspensions and where warranted dismissal, if necessary, to address employee accountability. The intent of our discipline process is to progressively influence and correct behaviors that do not comply with required standards.

With this in mind, **effective November 1, 2018**, the attached **Hybrid Discipline & Accountability Guidelines** amend the current Discipline & Accountability process, which has been in effect since March 8, 2017.

### **Company – Union Review Process**

The Company proposes that the appropriate Senior Vice President and respective Union Leader(s) conduct quarterly discipline reviews to determine if the Hybrid Discipline & Accountability Guidelines are achieving a meaningful reduction of disciplinary events while improving rule/safety compliance and employee availability. If it is determined the desired expectations are not being achieved, the Company may make adjustments during this trial period to enhance its effectiveness.

- The Company reserves the right to make amendments to the above three (3) categories and if this occurs we will provide the Union(s) and employees thirty (30) days' advance notice of any changes.

### **Significant Changes to Note:**

1. **Demerits** will be used for non-major offences and attendance related matters. Upon accumulating sixty (60) demerits, employees will be subject to dismissal.
2. Employees **subject to five (5) disciplinary events**, within any of the three (3) categories, during a 12-month period may be subject to dismissal.
3. Employees who are **discipline free in all three (3) categories** for a rolling 12-month period and who have rendered active service during each of the 12-months within that period, and have demerits on their record, will have a maximum of twenty (20) demerits removed from their discipline record.

It is our hope that these changes to which we hold each other accountable will continue to enhance safety through rule compliance and will further benefit each of us in the performance of our jobs.

Sincerely,

Robert Johnson  
Executive Vice-President Operations, CP



# HYBRID DISCIPLINE & ACCOUNTABILITY GUIDELINES

This notice applies to all unionized employees of Canadian Pacific Railway Corporation in Canada and its subsidiaries in the United States, namely, Soo Line Railroad Company, Dakota, Minnesota & Eastern Railroad Corporation and Delaware & Hudson Railway Company, Inc.

**EFFECTIVE – NOVEMBER 1, 2018**

Canadian Pacific Railway

## Overview of Hybrid Discipline & Accountability Guidelines

### General

#### 1. Employee Recognition

- a. Employees who are **discipline free in all three (3) categories** for a rolling 12-month period and who have rendered active service during each of the 12-months within that period, and have demerits on their record, will have a maximum of twenty (20) demerits removed from their discipline record. (Example: An employee record stands at 25 demerit points – the record would be adjusted to reflect 5 points)
- b. Employees who are **discipline free** for a 24-month period and who have rendered active service during each of the 24-months within that period, will have the most recent suspension no longer be considered in the assessment of future discipline.

#### 2. Employee Notification

Employees will receive a written warning that their continued employment may be in jeopardy when they accumulate either 30 demerits or 30 suspension days of active discipline.

3. **Exceptional Circumstances:** Employees **subject to five (5) disciplinary events**, within any of the three (3) categories, during a 12-month period, may be subject to dismissal.
4. **Admission of Responsibility:** Where offered by the Company, employees may elect the option of an Admission of Responsibility **as defined by their respective Collective Agreement**.
5. **Demerits:** Demerits only apply to Non-Major Offences and/or Attendance related matters. Employees who accumulate 60 demerits will be subject to dismissal.
6. **Deferred Suspension:** May apply to all three (3) categories, however, in exceptional circumstances; the Company may elect to defer a portion or all of the suspension.
  - a. A Deferred Suspension may later be activated if it is determined the employee is culpable for a subsequent offence.
  - b. Employees should be aware that a deferred suspension carries the same gravity as a served suspension in the consideration of subsequent disciplinary assessment. The typical default period for a deferred suspension is six (6) months from the date of assessment.

### **Other factors to look at when considering discipline:**

- Immediately reporting the incident
- Taking proper protective actions following the incident
- Acknowledging responsibility

### **7. Areas that require contact with Labour Relations:**

- Probationary Employees
- Personal Injury Handling
- If you require assistance in determining an appropriate assessment of discipline
- Last Chance Terms/Employment offers
- Events Governed by Federal Regulations

### **Non-Major Offences and Attendance**

**Employee Availability/Attendance** and other operating rule violations **not identified** as Major/ Life Threatening will be treated as a **Non-Major offence** and the disciplinary levels outlined on the table found on page 6, will apply.

#### **1. Informal Handling Option**

The Company believes that the majority of employees take great pride in their work and when involved in an incident, understand and accept when they have made a mistake. As a result, we believe it is important to provide employees the option to waive the formal investigation option. We also believe employees want to learn from their experience and move forward as quickly as possible.

- 2. Demerits:** Demerits only apply to Non-Major Offences and/or Attendance related matters. Employees who accumulate 60 demerits will be subject to dismissal.

#### **3. Formal Reprimand**

A Formal Reprimand is a written disciplinary letter that may be issued following an investigation and will confirm clear expectations of the employee. A Formal Reprimand may be used for those employees that do not have a recent discipline history or, may be used for employees who accept responsibility and demonstrate a willingness to comply with our operating rules before proceeding to the next Discipline Steps. A Formal Reprimand will be provided to employees and placed to their file.

## **Major - Life Threatening & Conduct Unbecoming Offences**

The following examples are for illustrative purposes and non-compliance may warrant immediate removal from service pending a formal investigation and may warrant suspension or in certain cases, dismissal.

### **Major - Life Threatening Violations**

1.	FRA decertifying events	9.	Occupying track without authority
2.	Speeding 10 MPH or greater above authorized speed limit for on track equipment	10.	Failure to inspect passing train
3.	Stop signal violations	11.	Failure to secure cars or locomotives
4.	Safety violations in and around equipment <ul style="list-style-type: none"> <li>• Three (3) Point Protection</li> <li>• 50 feet separation between equipment</li> <li>• 15 feet when passing around the end of standing equipment</li> </ul>	12.	Rule violations where a serious collision or derailment, serious injury, fatality or extensive damage to Company or public property occurred or was reasonably foreseeable, including failure to take proper protective measures following an incident
5.	Leaving cars in the foul	13.	Blue Flag violations
6.	Shoving – Failure to provide point protection consistent with rule	14.	Reckless endangerment
7.	Riding end of car being shoved not properly equipped, or on the coupler or drawbar	15.	Tampering with any Safety Device, including Cameras
8.	Any other Critical Life Saving Rules/events - as bulletined to each respective employee group.		

### **Conduct Unbecoming Offences:**

1.	Theft, fraud or the unauthorized taking of time or property	5.	Insubordination
2.	Sleeping on duty	6.	Intentional destruction of Company property
3.	Dishonesty, attempting to “cover up” an incident, making material false statements or concealing material facts concerning matters under investigation	7.	A violation of the following CP Policies:  Code of Business Ethics, Violence in the Workplace Policy, Use of Personal Electronic Devices,
4.	A violation of Discrimination and Harassment Policies, or other incidents of harassment, discrimination or retaliation	8.	Alcohol & Drug Policies and Procedures (subject to policy changes) <ul style="list-style-type: none"> <li>I. Policy 4101 – Alcohol and Drug Assistance through Company Officer &amp; Co-Worker Reporting.</li> <li>II. Non-Policy 4104 instances.</li> </ul>

**Cont. - Major - Life Threatening & Conduct Unbecoming Offences**

Depending on the offence the issuance of a minimum of a **20-calendar day suspension up to and including a 45-day calendar suspension and/or dismissal**. All situations and the disciplinary consequence will be judged based on the circumstances that may be assessed in conjunction with any suspension are:

- Deferred Suspensions (partial or full)
- Demotions
- Job Restrictions
- Requalification
- Training
- Last Chance Agreement Terms – as an alternative to discharge if conditions warrant

The following illustration demonstrates examples of progressive handling

Major - Life Threatening & Conduct Unbecoming Offences:	1 <sup>st</sup> Major Rule Infraction	Discipline	2 <sup>nd</sup> Major Rule Infraction	Discipline	3 <sup>rd</sup> Major Rule Infraction	Discipline
		<i>Minimum 20 day suspension, Up to and including a 45-day calendar suspension and/or dismissal</i>	<b>6 months later</b>	<i>Up to and including a 45-day calendar suspension and/or dismissal</i>	<b>8 months later</b>	<i>Up to and including a 45-day calendar suspension and/or dismissal</i>
<b>Locomotive Engineer / Conductor</b>	<i>Speeding Above 10 mph</i>	<b>20 day suspension</b>	<i>Failure to inspect passing train</i>	<b>40 day suspension</b>	<i>Sleeping on Duty</i>	<b>Dismissal</b>
<b>Car Department</b>	<i>Blue Flag</i>	<b>20 day suspension</b>	<i>Failure to secure cars</i>	<b>30 day suspension</b> *#1*	<i>Fail to provide point protection</i>	<b>Dismissal</b>
<b>Locomotive Mechanical</b>	<i>Failure to secure Locomotive</i>	<b>20 day suspension</b>	<i>Failed to provide 50 feet of separation between equipment</i>	<b>45 day suspension</b>	<i>Failure to secure locomotive</i>	<b>60 day suspension and last chance agreement and retraining</b> *#2*
<b>Engineering Department</b>	<i>Leaving a main track switch open</i>	<b>20 day suspension</b>	<i>Occupying track without authority</i>	<b>40 day suspension</b>	<i>Insubordination</i>	<b>Dismissal</b>
<b>Clerical</b>	<i>Improper customer conduct</i>	<b>20 day suspension</b>	<i>Use of Personal Electronic Devices</i>	<b>45 day suspension</b>	<i>Breach of Client Confidentiality</i>	<b>Dismissal</b>
<b>RTC</b>	<i>Incorrect TOP cancellation &amp; Foreman unprotected</i>	<b>20 day suspension</b>	<i>Concealing material facts concerning matters under investigation</i>	<b>30 day suspension</b>	<i>Dishonesty involving incident &amp; rule cover up</i>	<b>Dismissal</b>

**\*\*1\*** Leniency consideration – Immediately reported incident and acknowledged responsibility

**\*\*2\*** Leniency consideration – Immediately reported the incident and took proper protective actions

**Non-Major Offences and Attendance (examples)**

1	Rule violations that result in FRA reportable train accidents not considered Major Offences	9.	Violations of radio rules, including: CROR Rule 136(c) – read and repeat violation
2.	Failure to properly coordinate between crews working in same or adjacent tracks	10.	Speeding less than 10 MPH above authorized speed limit for on track equipment
3.	Failure to properly line switches for intended movement and or operating through an improperly lined switch	11.	Failure to have or an inadequate job briefing
4.	Attendance Management Violations	12.	In some situations, late reporting of an injury (contact Labour Relations)
5.	Failure to restore a derail and travelling over derail	13.	Failure to comply with qualification or certification requirements
6.	Violations causing significant operational impact	14.	Releasing or tying handbrakes from ground
7.	Handbrakes not released	15.	Failure to adhere to communicated customer service and performance metrics
8.	Improperly mounting and dismounting <u>moving</u> equipment		

**NOTE:** *For illustrative purposes, an employee currently at Step 2 of the existing Employee Discipline & Accountability Process who is involved in another Non Major event, depending on all of the circumstances involved, would normally be handled at Step 3 above.*

**When progressively handling Non-Major Offences and Attendance issues  
the following steps will be used:**

First Offence	Second Offence	Third Offence	Fourth Offence	Fifth Offence
<p><b>Employee option:</b></p> <p><b>Informal</b> - Accept responsibility and waive a formal investigation <b>Formal Reprimand</b></p> <p><b>Or;</b></p> <p><b>Formal</b> - Elect a formal investigation and if found culpable may be assessed</p> <p><b>10 Demerits</b></p>	<p><b>Employee option:</b></p> <p>Accept responsibility and waive a formal investigation <b>10 demerits</b></p> <p><b>Or;</b></p> <p><b>Formal</b> - elect a formal investigation and if found culpable may be assessed</p> <p><b>15 Demerits</b></p>	<p><b>Employee option:</b></p> <p>Accept responsibility and waive a formal investigation <b>15 demerits,</b></p> <p><b>Or;</b></p> <p><b>Formal</b> - elect a formal investigation and if found culpable may be assessed</p> <p><b>20 Demerits</b></p>	<p><b>30 Demerits.</b></p> <p><b>Or;</b></p> <p>At Company discretion a 30 day Suspension in lieu of Dismissal for accumulation of demerits</p>	<p><b>Demerits and/or suspensions,</b></p> <p><b>Or:</b></p> <p><b>Any combination thereof up to and including Dismissal</b></p>

The following Questions and Answers are for illustrative purposes only. In all circumstances where there is a discrepancy, The Hybrid Discipline and Accountability Guidelines document applies.

## Questions and Answers

### General Questions

**Question 1** How will any previous discipline I have be handled after this Guideline is in effect?

Answer: Any previous discipline will be treated as if these Guidelines were in effect at that time when any future discipline is given.

**Question 2** What if an incident is not listed in this document?

Answer: The offences listed in this document are examples only and not all-inclusive.

**Question 3** Are suspensions in calendar days or working days?

Answer: Suspensions are issued in calendar days for employees who do not have a scheduled work week. For employees with a scheduled work week, actual working days will be used.

**Question 4** General Item #1a refers to employees who are discipline free for a rolling 12-month period will have 20 demerits removed from their record. However, Item #2b refers to suspensions and states the most recent suspension will no longer be considered in the assessment of future discipline. Are demerits completely removed from my record after 12-months?

Answer: No, similar to suspensions, demerits remain on your record but are no longer considered active for the purposes of assessing future discipline.

**Question 5** Why is the Company changing the discipline system?

Answer: The Company routinely reviews all policies and procedures to ensure they reflect the current needs. We believe the Hybrid Discipline Guidelines contained herein will provide a progressive balance when considering discipline for those events that fall under major, non-major and attendance categories.

**Question 6** If I have four (4) non-major incidents (like absenteeism) and one (1) major incident within twelve (12) months, will I still be subject to dismissal.

Answer: Yes, five (5) incidents of any kind may result in your dismissal.



**Question 7** What if I have two (2) non-major incidents and three (3) major incidents within twelve (12) months? Am I still subject to dismissal?

Answer: Yes.

**Question 8** When the new policy goes into effect, will an employee's current discipline history be expunged?

Answer: The implementation of this Guideline will not change the existing Discipline Step of an employee. Any previous discipline will be treated as if these Guidelines were in effect at that time when any future discipline is assessed.

**Question 9** The new Guidelines do not reference letters of caution. If a letter of caution were given to an employee, would this letter be considered discipline?

Answer: A letter of caution is not considered discipline.

**Question 10** Who is responsible to initiate the Company-Union Review Process outlined in the Guidelines?

Answer: It is incumbent upon each Union Leader or Senior Vice President, or their designate, may request a meeting to review the process outlined in the Guidelines.

### **Non-Major Questions**

**Question 1** What is the difference between informal handling and formal handling in the first three steps of the Non Major or Attendance category?

Answer: Informal handling occurs when the employee has accepted responsibility. Formal handling and a formal investigation will occur when the employee elects not to accept responsibility.

**Question 2** In the application of the First, Second and Third Offences under the Non Major Category offences on Page 6, there is reference to allowing employees to accept responsibility and waive a formal investigation. Why would the Company entertain this?

Answer: The Company believes that the majority of employees take great pride in their work and when involved in an incident, understand and accept when they have made a mistake. We also believe these employees want to learn from this experience and move forward as quickly as possible.

**Question 3** When progressively handling Non-Major Offences and Attendance issues the terms “Informal” and “Accept responsibility” are referenced as follows:

*“Informal - Waive formal investigation and accept responsibility and a Formal Reprimand”*

Is the above referring to either the Informal Handling or Admission of Responsibility provisions that are contained in my collective agreement?

Answer: Yes.

**Question 4** My Collective Agreement does not provide for an Admission of Responsibility. May I choose to sign one anyways?

We recognize that in some cases, the Collective Agreement may not have an admission of responsibility provision; however, this does not restrict you from involving your union and/or electing a decision that best meets your needs.

**Question 5** If an employee elects the Informal option and accepts responsibility for a Non-Major Offense, is Union involvement required?

Answer: A Letter of Written Reprimand is recognized as a minor form of discipline and where the Collective Agreement requires union involvement, the answer is yes.

**Question 6** I received a formal reprimand in September of last year. If I work 12 months discipline free, will the formal reprimand be considered in the future assessment of discipline?

Answer No. Similar to suspensions and demerits, the formal reprimand will remain on your record but will no longer be considered active for the purposes of assessing future discipline.

**Question 7** I accidentally ran through a switch and immediately notified my supervisor. I have accepted full responsibility for the incident, what will I get for discipline? As information, I currently have a Formal Reprimand on file for missing a call.

Answer: This kind of incident would be considered a Non-Major event; however since this is your second event you will be at step 2 of the process. If you waive your rights to a formal investigation, you will receive 10 demerits for this incident.

**Question 8** Can you provide an example where “Failure to adhere to communicated customer service and performance metrics” would apply?

**Answer:** When customer service or minimum performance metrics are communicated and reviewed with employees and these metrics are not maintained due to employee performance this would be considered a Non-Major event under Item #15 on Page 6.

**Question 9** Some of the Collective Agreements have varying ranges of demerits that can be assessed through the Admission of Responsibility (AOR) provisions. For example, under the non-major offences category (see page 6), an employee may elect an Admission of Responsibility for 15 demerits for the second infraction, however, my Collective Agreement AOR provisions limit demerit marks to a maximum of 10 demerits.

Due to my collective agreement provisions, will I be restricted from accepting responsibility and waiving a formal investigation?

**Answer:** Accepting responsibility and waiving a formal investigation is a voluntary process. In this example, if the employee elects Informal handling, it will be incumbent upon both the Union and the employee to acknowledge on the Admission of Responsibility form that the assessment of 15 demerits marks will be accepted and not grieved.

### **Major Category Questions**

**Question 1** The Major – Life Threatening and Conduct Unbecoming Offences do not state that an employee could waive their rights to an investigation and accept a disciplinary suspension, why is this?

**Answer:** While there may be circumstances where employees may wish to waive their rights and the Company may accept, the majority of events under this category require a formal investigation to understand and determine the circumstances that led up to the incident.

**Question 2** Do I have to be involved in three (3) major incidents in a 12-month period before I would be dismissed?

**Answer:** The specifics of the incident are considered. Depending on the significance of the incident, it may take fewer Major Offences that result in dismissal. The chart on Page 5 provides an illustrated overview to further address your question.

**Question 3** I am an employee with a major offence on my record that resulted in a 20-day suspension. I am now absent from work without authority, what are the possible disciplinary consequences that I may face?

**Answer:** If this absenteeism event is your first offence under the Non-Major category, discipline is based on your decision to accept responsibility and waive the formal investigation; or elect the formal investigation process outlined on page 6. If you elect informal handling, the maximum discipline you will receive is a formal reprimand versus receipt of 10 demerits under the formal handling process.

**Question 4** I am a Rail Traffic Controller and I have been charged with insubordination, which is a major offence. Since this is my first Major offence, does this mean I will only receive a twenty (20) day suspension?

**Answer:** The circumstances of the incident will be considered. If it is confirmed you were insubordinate, which is a Conduct Unbecoming Offence, you could be dismissed.

**Question 5** What is an example of Reckless Endangerment?

**Answer:** In addition to a violation of the Alcohol and Drug Policies and other Major Rules, driving a company vehicle or operating Company owned equipment under the influence of alcohol or drugs will be considered Reckless Endangerment.

**Question 6** I am a Clerical employee and I have been assessed a twenty (20) day suspension. I see that for the other crafts, major offences have a component of safety concerns. Do the offences listed in the Major and Conduct Unbecoming Offence category apply to me?

**Answer:** Yes.

**Question 7** I am a Conductor who has received a 20-day suspension. I have been advised that 10 of the days are to be served and that 10 of the days will be deferred. My Union said this is a violation of my agreement and is not permissible. Is this correct?

**Answer:** A review the 39 Collective Agreements CP has with its Unions confirms there is no specific collective agreement restriction in any agreement that prevents the Company from deferring a suspension.

**Question 8** I work in the Engineering Department and have received a 20-day suspension. I work a 7 day on, 7 day off work cycle. Will actual calendar days be used when serving suspension purposes?

**Answer:** Yes.