



## **Employee Discipline & Accountability Process**

**(For all Canadian Pacific (Canada) Unionized Employees)**

**June 23, 2017**

## **Guiding Principles**

### **1. Why are the Progressive Discipline Steps not ranges of suspension days?**

The system is designed so that the Progressive Discipline Steps are used as benchmarks to allow for future progression if needed. There is complete flexibility to reduce the financial impact of a particular suspension by deferring some or all of a suspension in consideration of mitigating factors. In addition, there is complete flexibility to assess greater discipline by skipping a step in consideration of aggravating factors.

### **2. Are the Appendices with Serious and Major Offences exhaustive?**

No. The Appendices are intended to reflect the nature of the offences that are either Serious or Major. Similar offences would also be considered Serious or Major, as the case may be, even if they are not specifically listed.

### **3. What is a Deferred Suspension?**

A Deferred Suspension is where an employee is assessed a suspension but is not required to serve the deferred portion at that time. A Deferred Suspension may be activated later if the employee is found culpable for another offence. The default duration of a Deferred Suspension is 6 months; however, this duration may be adjusted on a case by case basis considering the particular circumstances. Deferred Suspensions carry the same weight as a served suspension in subsequent assessments of discipline.

### **4. What is the benefit of a Deferred Suspension?**

The benefit of deferring some or all of a suspension is that it promotes correction of behaviour through ongoing deterrence while reducing the immediate financial impact of a suspension on an employee. Deferred Suspensions are typically used when mitigating factors warrant a reduction of discipline.

### **5. Does the Company still issue Record Suspensions?**

Yes, but limited to use for Attendance Management System infractions if deemed appropriate on a case by case basis.

**6. How are violations under the Attendance Management System assessed?**

Violations under the Attendance Management System are assessed using the Progressive Discipline Steps; however, an employee's Attendance Management violations are tracked separately from other disciplinary offences.

**7. Does the Company have the ability to split discipline?**

Yes. As an example, a 10 day (Step 2) suspension may be partially served and partially deferred (i.e. 10 day suspension (5 served; 5 deferred)). The benefit of this is that mitigating factors can be acknowledged by reducing the financial impact of a suspension, while maintaining a Step 2 suspension on the Employee's discipline record and promoting corrected behavior in the future.

**8. Are there specific Appendices for each craft?**

No. This Process is intended as a guide for all unionized employees.

## Employee Discipline & Accountability Process

### Progressive Discipline Steps

The following Progressive Discipline Steps represent steps available for a disciplinary assessment. These steps are meant to be used for progressive discipline and also represent the starting points based on the nature of the violation.

### Informal Handling

This is a non-disciplinary assessment to set clear expectations with the employee and may be used for employees that do not have a recent discipline history (clear for three previous years) accept responsibility and demonstrate a willingness to comply with our operating rules before proceeding to Progressive Discipline Steps.

<b>Step 1</b>	<b>5 calendar day suspension</b>	<b>Start point:</b> Rules violations that are not Serious or Major Offences. Also includes assessments of discipline under the Attendance Management Program.
<b>Step 2</b>	<b>10 calendar day suspension</b>	<b>Start point:</b> Serious Offences (Appendix "A")
<b>Step 3</b>	<b>20 calendar day suspension (with <u>warning employment is in precarious position</u>)</b>	<b>Minimum Start Point:</b> Major Offences (Appendix "B").
<b>Step 4</b>	<b>Dismissal</b>	<b>Major Offences</b> may warrant outright dismissal.

The following table demonstrates the above, including the advancement through the Progressive Discipline Steps for offences that are not Serious or Major Offences, as well as the start points for Serious and Major Offences.

Offence	Informal Handling				
Education Required	X	May be used, if appropriate, pursuant to the above definitions prior to proceeding to Progressive Discipline Steps			
Progressive Discipline Steps					
		5 Day Suspension	10 Day Suspension	20 Day Suspension	Dismissal
Step 1 Offence		X			
Step 2 Offence			X		
Step 3 Offence				X	
Step 4 Offence					X
Starting Point for Serious and Major Offences					
Serious Offences			X		
Major Offences	Minimum 20 days up to dismissal			X	Up To

**Consider other consequences that may be assessed in conjunction with a suspension**

• Deferred Suspensions (partial or full)	• Requalification
• Demotions	• Training
• Job Restrictions	• Last Chance Terms

**Areas that require contact with Labour Relations**

• Probationary Employees	• Attendance Management System
• Personal Injury Handling	• Events Governed by Federal Regulations

**Absenteeism** - typically record suspensions will be used but deferred or actual may be substituted.

**Consider mitigating and aggravating factors**

Examples of mitigating factors warranting a decrease in discipline include but are not limited to: immediately reporting the incident, taking proper protective actions following the incident and acknowledging responsibility.

Examples of aggravating factors warranting an increase in discipline include but are not limited to: multiple offences, prior similar offences, failure to immediately report the incident, failure to take proper protective actions following the incident, attempting to “cover up” the incident, failing to take responsibility and providing false or misleading information in an investigation.

### **Consider regression of the employee’s standing within the Progressive Discipline Steps**

For previously assessed Major Offences, an employee’s current discipline standing will regress one Step in the Progressive Discipline Steps following 2 years of discipline free service and thereafter will regress one Step in the Progressive Discipline Steps for each additional year of discipline free service.

For all other offences, an employee’s current discipline standing will regress one Step in the Progressive Discipline Steps for each year of discipline free service since the last assessment of discipline.

### **Final assessment of the discipline**

The final assessment of discipline involves consideration of all the circumstances, including:

- The employee’s current standing within the Progressive Discipline Steps, including regression
- The nature of the current violation
- Other consequences that may be appropriate in the circumstances
- Mitigating and aggravating factors

All of these factors must be considered and the discipline assessed must be responsive to the particular circumstances. Contact Labour Relations if you require assistance in determining an appropriate assessment of discipline.

### **Joint Labour Management Committee**

Questions concerning operation or application of the process will be reviewed by a joint labour management committee that meets minimum 2x annually and is chaired by CP’s Executive VP Operations and Labour Relations. Other members of the committee may include up to two additional CP representatives that include the Vice President from the involved department. A total of four Union Leaders from different unions will also be included in the committee. At a minimum the Committee will meet in April and September of each year at a date mutually agreeable to all attendees.

## **Appendix “A”**

### **Serious Offences**

Serious offences include rule violations resulting in a derailment or damage to equipment, poor performance or violation of the Company’s policies, practices or procedures that are not otherwise identified. The following are examples of Serious Offences for illustrative purposes only and are not intended to limit the other offences that are considered serious:

1. Rule violations that result in FRA reportable train accidents not considered Major Offences in Appendix B.
2. Improperly mounting and dismounting moving equipment
3. Safety violations in and around equipment
  - Three (3) Point Protection
  - 50 feet separation between equipment
  - 15 feet when passing around the end of standing equipment
4. Failure to properly coordinate between crews working in same or adjacent tracks
5. Violations of radio rules, including:
  - CROR Rule 136(c) – read and repeat violation
6. Failure to properly line switches for intended movement
7. Riding end of car being shoved not properly equipped, or on the coupler or drawbar
8. Leaving cars in the foul
9. Failure to have or an inadequate job briefing
10. Failure to restore a derail and travelling over derail
11. Speeding less than 10 MPH above authorized speed limit for on track equipment
12. In some situations, late reporting of an injury (contact Labour Relations)
13. Violations causing significant operational impact
14. Failure to comply with qualification or certification requirements
15. Handbrakes not released
16. Releasing handbrakes from ground

## **Appendix “B”**

### **Major Offences**

Major Offences are those offences that may warrant removal from service pending a formal hearing\* and may warrant dismissal. The following are examples of Major Offences for illustrative purposes only and are not intended to limit other offences that are considered major:

#### **Operating violations such as:**

1. FRA decertifying events (*US Only*)
2. Speeding 10 MPH or greater above authorized speed limit for on track equipment
3. Stop signal violations, including Blue Flag violations
4. Failure to protect the point, including a shoving movement
5. Occupying track without authority
6. 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
7. Failure to secure cars or locomotives
8. Failure to inspect passing train
9. Reckless endangerment

#### **Conduct Unbecoming such as:**

10. Theft, fraud or the unauthorized taking of time or property
11. Insubordination
12. Dishonesty, attempting to “cover up” an incident, making material false statements or concealing material facts concerning matters under investigation
13. Intentional destruction of Company property
14. Sleeping on duty
15. A violation of the following CP Policies:
  - a. Code of Business Ethics
  - b. Discrimination and Harassment Policy, or other incidents of harassment, discrimination or retaliation
  - c. Violence in the Workplace Policy
  - d. Use of Personal Electronic Devices
  - e. Alcohol & Drug Policies and Procedures (Labour Relations should be contacted in such situations)

\*Holding an employee out of service pending an investigation is collective agreement specific and can be done for additional reasons in some instances. Contact Labour Relations for assistance.