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ABSENCE CONTROL POLICY

I. PURPOSE

To ensure that adequate human resources are available to provide continual effective customer service, it is essential that the Long Island Rail Road (LIRR) establish a system to identify and control excessive absence.

The Absence Control Policy (Policy) is subject to cancellation or modification at the sole discretion of the LIRR at any time. The Policy complies with all applicable labor agreements and related corporate policies (See Section VIII, Related Corporate Policies).

II. GOAL

It is the responsibility of each LIRR employee to report at the times, on the days and at the designated locations for which he/she is scheduled, and to remain on duty for the full workday. This is the most important basic obligation an individual assumes as a condition of employment with the LIRR.

All employees have an obligation to the LIRR, our customers, the taxpayers of our service territory and their fellow employees to strive for perfect attendance. Unscheduled employee absences adversely affect productivity and efficiency, unnecessarily increase costs, put additional burdens on employees who do report to work and reduce the quality of service the LIRR can provide to our customers. Employees are expected to maintain reasonable health standards, take intelligent precautions against illness and make every effort to live and work safely, both at home and at work. Employees are further expected not to allow minor ailments or inconveniences to prevent them from reporting to work as assigned.

III. PROVISIONS FOR ABSENCE

All employees are provided with adequate amounts of leave. Collective Bargaining Agreements ("Agreements") describe exceptions to an employee's daily obligation to report for duty (e.g., holidays, vacation and personal leave, jury duty and similar bona fide absences).

Employees are permitted to use sick leave for personal illness or injury. Employees who attempt to use sick leave for any other reason or who use sick leave in violation of this procedure will be subject to disciplinary actions up to and including dismissal. Absences covered by an approved FMLA leave shall not be assessed points under this policy. Approved FMLA leaves for an employee's own personal illness shall run concurrently with sick leave usage.



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IV. SCOPE

The Policy applies to all LIRR employees represented by the following Organizations while on straight time or in an overtime status:

- UTU- Carmen and M of W Workers Bro. of Railroad Signalmen
- UTU – Train Service Bro of Locomotive Engr & Trainmen
- IRSA (Gang Foremen Only) Int'l. Bro. of Electrical Workers
- Int'l. Association of Machinists Nat'l. Conf. of Firemen & Oilers
- Sheet Metal Workers Transportation Communications Union
- UTU – Special Services UTU – Yardmasters

V. DEFINITIONS

A. Sick Leave Form – Form established by the LIRR and submitted by the employee in accordance with the applicable Collective Bargaining Agreement (CBA), providing a medical statement by the employee's physician as to the reason for the absence.

B. Absence Control Classifications

1. Disabled/Sick (D/S) - Time lost by an employee due to illness or injury not received in performance of duty that is charged against the employee's allowable sick leave bank, paid or unpaid.
2. Disabled/Accident (D/A) – Time lost by an employee due to injury received in performance of duty that may or may not be charged against the employee's allowable sick leave bank in accordance with the applicable CBA and corporate policy.
3. Absence Known (AK)
 - a. Employee notifies appropriate supervisor that he/she needs a day off without pay due to an unforeseeable circumstance.
 - b. Employee returns timely from other approved leave (e.g. military leave, jury duty, bereavement leave) but fails to complete appropriate forms or provide necessary documentation in accordance with LIRR policy.
 - c. Employee properly notifies department and is granted a personal or vacation day and has no days remaining in bank (vacation/personal day overuse).
 - d. Employee who returns to work immediately following a DS occurrence and fails to notify the LIRR that he/she is returning to duty and who is sent home.



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e. Maintenance of Equipment (M of E) Department Employees only - Days off taken after "bump" until employee exercises his/her seniority to another position.

4. Absence Unauthorized (AU)- (Straight-time or overtime assignment)

a. Employee fails to call off sick timely in accordance with the applicable CBA; or

b. Employee out D/S fails to file a sick leave form in accordance with the applicable provision of the CBA within three (3) days of returning to duty.

5. Unauthorized Sick (US) – Employee out D/S is not available when called or visited in accordance with the applicable CBA.

6. Absent Without Leave (AWOL) – (Straight-time or overtime assignment)

Employee fails to report to duty at the required time without having properly notified the appropriate supervisor or designee (within one (1) hour of start of tour for M of E and M of W employees) or employee abandons job site prior to end of tour of duty without notifying appropriate supervisor or designee.

Passenger Service Department only – Should an employee and the Passenger Services Crew (“Crew”) make contact, regardless of who initiated the call, within thirty (30) minutes after the start of the assigned tour and the employee reports to the assigned location within sixty (60) minutes after the start of the tour, the employee will be considered late and marked as a “Late Start”. If, however, contact is made within thirty (30) minutes after the start of the assigned tour and the employee cannot report to the assigned location within sixty (60) minutes after the start of the tour, the employee will be considered AWOL.

Should there be no communication between “Crew” and the employee within thirty (30) minutes after the start of the assigned tour, the employee will be considered AWOL.

An employee contacting Crew before the start of the assigned tour, but cannot report for his/her assigned tour within sixty (60) minutes after the start of the assigned tour will be considered Absence Unauthorized (AU)

7. Early Quit (EQ) - (Straight-time or overtime assignment)

Employee leaves before the end of his/her tour of duty after having notified and received approval from appropriate supervisor.



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8. Late Start (LS) – (Straight-time or overtime assignment)

Employee notifies his/her supervisor or designee as soon as possible and if practical, prior to their report time and reports to duty after he/she is required to report.

9. Record Discipline – Suspension on the record only, in accordance with progressive discipline, as outlined in the Policy. The actual suspension from service is not imposed. When record discipline is used, time held in abeyance cannot be used in subsequent discipline.

10. Lost Guarantee -Train & Engine (T&E) Only

An extra list employee who is not home or does not answer the telephone when the LIRR calls with his/her assignments.

11. Run Failure (Train Service)

Fails to report for his/her assignment by report time but notifies his/her supervisor before the end of his/her tour of duty. A Train Service employee who fails to report his/her absence prior to the end of his/her tour or is found to be absent after his/her first train of the assignment shall be Absent Without Leave (AWOL).

Run Failure (Train Movement & Yardmasters)

Fails to report for his/her assignment by report time, but notifies his/her supervisor within one (1) hour of report time. If notified after one hour of absence, Run Failure will become an AWOL. If an employee from a craft other than those mentioned above does not report for duty on time (and it is not a late start), discipline will be handled similar to Run Failure.

UTU ONLY – Fails to call off in accordance with the applicable contractual limits before the start of his/her tour of duty.

12. Article 17 of BLE&T Agreement

Fails to call off at least three (3) hours in advance of his/her reporting time in accordance with Article 17 of the BLE&T Agreement.

13. Family Leave (FMLA)

Leave pursuant to the LIRR Family and Medical Leave Policy (FMLA Policy).



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C. Absence Control Committees

There will be two separate and distinct review committees:

1. Absence Control Review Committee – consists of director level representatives responsible for the administration of the Policy from Human Resources, Labor Relations, M of E, Maintenance of Way (M of W), Transportation, Passenger Services, Controller, Strategic Investments, Service Planning, Technology and CPM, Public Affairs, Safety, Law and Procurement. The Review Committee shall meet monthly to review each department’s employee’s identified on the absence control list, trial charges issued, management exceptions applied, trial waivers agreed to, status of pending trials, etc.
2. Executive Committee - consists of the Executive Director – Human Resources, Vice President – Labor Relations, Chief Engineer, Chief Mechanical Officer, Chief Transportation Officer and General Manager – Passenger Services. This committee will report quarterly to the President.

VI. **PROCEDURE FOR DOCUMENTING POINTS**

An employee who experiences an absence will have the following point schedule applied to his/her attendance record.

A. Absences with Points

1. Absence Known (AK) - six (6) points
2. Absence Unauthorized (AU) - nine (9) points
 - a) When an employee is going to be out D/S, if he/she does not call within the applicable time period before their scheduled tour of duty the employee will be assessed nine (9) points for an AU for that occurrence (Providing there are no other violations of the ACP), except that Train/Engine, Train Movement and Yardmasters will be charged similar to a Run Failure/Article 17 violation.
 - b) An employee who is D/A or D/S and is required to submit a sick leave form and fails to provide a completed form within the contractual time period, such employee shall be considered as violating the applicable CBA, and such absence shall be considered as Absence Unauthorized. The employee will be assessed an additional nine (9) points for the absence. (Employee will be assessed five (5) points for the D/S occurrence plus nine (9) points for failure to submit a sick form (AU), for a total of fourteen (14) points.
3. Early Quits (EQ) - four (4) points



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4. Injury (D/A) - five (5) points

5. Late Starts (LS) - four (4) points

6. Sick (D/S) - five (5) points

a. If an employee out D/S gives proper notification every day or in accordance with established departmental practice, when he/she is out sick, only five (5) points are assigned for the occurrence, regardless of length.

b. When an employee's status changes between D/A and D/S, he/she will not be assessed additional points for this absence because it is considered as one occurrence.

7. Lost Guarantee - Nine (9) points

8. Unauthorized Sick (US) - nine (9) points. In addition to the assessed five (5) points for the DS occurrence.

An employee is considered out US if not available when called or visited. The employee will be assessed an additional nine (9) points for each day absent when called and not available. (Employee would be assessed five (5) points for the D/S occurrence plus nine (9) points for not being home when called or visited (US), for a total of fourteen (14) points.)

B. Criteria for Evaluating the Discipline Process

1. Accumulation of Points.

Employees are assigned points for the absences set forth above, per occurrence, not number of days of the absence. Points for employee absences accumulate on a rolling (i.e., ongoing, not calendar) basis.

2. Schedule of Excessive Points.

Employees whose attendance records indicate an accumulation of points in accordance with the following schedule may be disciplined for violation of this policy.

a. Twelve (12) or more points during a one (1) -month period;

b. Eighteen (18) or more points during a three (3) -month period;

c. Twenty-four (24) or more points during a six (6) -month period; or

d. Thirty (30) or more points during a twelve (12) -month period.



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3. Discipline based on the points system is not automatic. Department Heads and/or designee should exercise discretion as to whether it is appropriate to discipline an employee. Such discretion should be exercised consistently based on objective factors, including the employee's overall attendance record. A written explanation shall be provided to the Absence Control Review Committee.

4. Evaluation of attendance for patterns of absence.

Employees whose attendance records indicate a pattern of abuse in conjunction with other days not worked will also be considered to have unsatisfactory attendance and may be subject to discipline.

Patterns of abuse, such as the repeat occurrences of taking days off in conjunction with relief days, vacations, personal days, or other approved time off constitutes a pattern of abuse subject to discipline without requiring the accumulation of points as described in this Policy.

5. When a review of an employee's attendance record is conducted because of a violation of the Policy for excessive points, AWOL or Run Failure/Article 17 and the employee has been disciplined for other violations (i.e. operating violations, cash remittance violations, etc.) the discipline may be accelerated to the next level of discipline above the one that would otherwise be applied. For example, an employee whose second violation for excessive points normally results in a Letter of Reprimand. However, if the LIRR discovers from the employees record that the employee had an operating rule violation, the discipline may be accelerated to a third step violation where a suspension may be issued if a trial waiver is accepted.

C. Discipline for Violations of Excessive Absenteeism

1. Time limits

a. The LIRR is deemed to have actual knowledge of an employee's violation of the Policy when his/her Department Head receives the monthly Absence Control Report or when the Department Head has actual knowledge in accordance with the applicable CBA. (Employees represented by the BLE&T are covered by paragraph [b] below.)

b. Brotherhood of Locomotive Engineers & Trainmen (BLE&T) – Employees represented by the BLE&T must be charged within fifteen (15) calendar days after the occurrence of the last date of the absence for which the employee is charged. The employee must receive seventy-two (72) hours notice of the trial, which must be held within fifteen (15) calendar days after the last date of the absence for which the employee is charged.



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2. Assessments for Violations Based on Points or Unacceptable Patterns

(All references to record discipline apply to Transportation Department only. All other departments shall continue to impose suspensions without pay, where applicable.)

- a. A first violation will result in a Letter of Warning (or Caution), which is not discipline. Note: a Letter of Warning should remain part of the employee's department file for a minimum of three years presuming there is no intervening absence control discipline and unless otherwise provided in their applicable CBA.
- b. A second violation will result in a Letter of Reprimand with a trial waiver or a suspension of five (5) working days, if the charge is upheld after a trial. Referral to EAP at Department discretion.
- c. A third violation results in a ten (10) working day suspension with a trial waiver. A suspension resulting from a trial waiver for this violation is a "record discipline" only, in accordance with progressive discipline. The actual suspension from service is not imposed. The trial waiver warns of the need to correct attendance and that a fifth violation may result in dismissal. A twenty (20), calendar day suspension is imposed if the charge is upheld after a trial. EAP is mandatory if the charge is upheld after a trial or the employee accepts a trial waiver.
- d. A fourth violation results in a thirty (30) calendar day suspension with a trial waiver. A suspension resulting from a trial waiver for this violation is a "record discipline" only, in accordance with progressive discipline. The actual suspension from service is not imposed. The trial waiver warns of the need to correct attendance and that a fifth violation may result in dismissal. A forty-five (45), calendar day suspension is imposed if the charge is upheld after a trial. EAP is mandatory if the charge is upheld after a trial or the employee accepts a trial waiver.
- e. For a fifth violation, the employee will receive a sixty (60) calendar day suspension and a Last Chance Agreement with a trial waiver that includes mandatory EAP, or dismissal if the charge is upheld after a trial.
- f. A copy of all disciplinary notices referenced in this section will be forwarded to Human Resources - Personnel Records.



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3. Penalties – Violations Based on Run Failure and/or BLE&T Article 17

- a. A first violation will result in a Letter of Warning (or Caution), which is not discipline. Note: A Letter of Warning should remain part of the employee's department file for a minimum of one year. It is the corporate document that indicates that the employee was notified of the applicable LIRR policy and may be produced at any time, if warranted.
- b. A second violation, the employee will receive a Letter of Reprimand with a trial waiver, or a three (3) working day suspension if the charge is upheld after a trial. Referral to EAP at department discretion.
- c. A third violation results in a five (5) working day suspension, if a trial waiver is accepted. The trial waiver warns of the need to correct attendance and that a fifth violation may result in dismissal. A fifteen (15) calendar day suspension is imposed if the charge is upheld after a trial. Referral to EAP is mandatory.
- d. A fourth violation results in a twenty (20) calendar day suspension with a trial waiver. The trial waiver warns of the need to correct attendance and that a fifth violation may result in dismissal. A forty-five (45) calendar day suspension is imposed if the charge is upheld after a trial. Referral to EAP is mandatory.
- e. A fifth violation results in a sixty (60) calendar day suspension and Last Chance Agreement if a trial waiver is accepted (with mandatory referral to EAP) or dismissal if the charge is upheld after a trial.
- f. A copy of all disciplinary notices referenced in this section will be forwarded to Human Resources - Personnel Records.

D. A.W.O.L. Violation

This is considered a major infraction of the Policy and will result in a trial charge. Points are not assigned to the employee's record. An employee may be disciplined for each day the employee is reported A.W.O.L. Each day an employee is marked A.W.O.L. may constitute a separate charge.

1. Assessments for AWOL Violations

- a. A first violation results in a five (5) working day suspension, if a trial waiver is accepted. A ten (10) working day suspension is imposed if the charge is upheld after a trial.
- b. A second violation results in a ten (10) working day suspension, if a trial waiver is accepted. A twenty (20) calendar day suspension is imposed if the charge is



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upheld after trial. Referral to EAP at department discretion.

c. A third violation results in a fifteen (15) calendar day suspension with a trial waiver. A thirty (30) calendar day suspension is imposed if the charge is upheld after trial. In either case, the employee is mandated to EAP.

d. A fourth violation results in a thirty (30) calendar day suspension with a trial waiver. A sixty (60) calendar day suspension is imposed if the charge is upheld after a trial. In either case, the employee is mandated to EAP.

e. A fifth violation results in a sixty (60) calendar day suspension and a Last Chance Agreement with a trial waiver (with mandatory referral to EAP) or dismissal if the charges are upheld after trial.

f. A copy of all disciplinary notices referenced in this section will be forwarded to Personnel Records.

E. Expunging of Discipline

Some CBA's provide for the expunging of disciplinary actions from the personnel files after three (3) years for minor offenses. A violation occurring after the expunging will revert back to the last violation received should there be absence control discipline remaining on the employee's record.

Transportation Department – Run Failures/Article 17 only will be expunged after (1) year.

F. Other Provisions

An employee will not be disciplined for the same date(s) on more than one attendance trial notice. However, the accurate dates in a trial notice or warning letter that are withdrawn may be used again in a future trial notice.

While the employee is serving any of the aforementioned discipline suspension, that employee will be prohibited from working an overtime assignment from first date of suspension to end date including any relief day that falls in that period.

The disciplinary penalties assessed under the Policy should be considered when assessing discipline for other non-absence control violations.



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VII. ESSENTIAL FUNCTIONS

A. Department Heads

1. Ensure compliance with the Policy in all respects.
2. Ensure that records of employee discipline are maintained in Department files and forwarded to Human Resources.
3. When an employee transfers to another department, under all circumstances, the Department Head should ensure that the employee's entire departmental file, with regard to Letters of Warning and discipline, is forwarded to the new department.

B. Human Resources

1. Maintain copies of records of employee discipline under the Policy in employee personnel files.
2. The Executive Director-Human Resources chairs the Absence Control Policy Executive Review Committee.
3. Employee Assistance Program (EAP) – provides counseling to employees on a voluntary basis regarding how to improve their attendance. Counseling is mandatory as noted above.

C. Labor Relations

Ensures that disciplinary and other actions taken in connection with the Policy comply with CBA's.

VIII. RELATED CORPORATE POLICIES

Americans with Disabilities Act Policy
Attendance Policy
Bereavement Leave Policy

Family and Medical Leave Policy
Military Leave Policy
Restricted Duty Policy

IX. EFFECTIVE DATE

December 2006