

Operating Procedure

Title: **ATTENDANCE - Represented Employees**
Effective Date: June 9, 1988
Revised Date: January 1, 2005

Number: **21-021B**
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A. POLICY

1. It is the responsibility of each Metro-North Railroad ("MNR") employee to report for duty 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 MNR.

All employees have an obligation to MNR, 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 Metro-North 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.

2. All employees are provided with adequate amounts of leave. Six MNR Corporate Operating Procedures ("Procedures") and provisions in the various 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 bonafide absences). The various leave allowances and limitations, administrative steps, and documents required, are detailed in these MNR procedures:

- 21-003: Holidays
- 21-004: Vacation & Personal Leave
- 21-006: Administrative Leave
- 21-009: Bereavement Leave
- 21-010: Military Leave
- 21-022: Family & Medical Leave

3. Employees are permitted to use sick leave for personal illness or injury, or to care for ill or injured dependent family members. 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. Other leave programs (listed above) may be used for personal injury or illness only to the extent authorized by the Family and Medical Leave ("FMLA") policy. To the extent employees use sick leave for FMLA-qualifying reasons, and are on an authorized FMLA leave, such leave shall count towards both sick leave and any FMLA entitlement.

4. Procedures and Agreements that establish paid sick leave days are intended to provide employees with pay protection for reasonable periods of short-term illness; they also allow employees to "bank" unused sick leave days for use in the event of longer-term absences from work due to serious illness or injury.

The Procedures and Agreements that provide payment for sick leave do not excuse an employee for his/her absence on any given work day. Employees whose use of sick leave days exceeds reasonable levels will be considered as having unsatisfactory attendance. Unsatisfactory attendance includes one or more of the following:

- a. Frequent one day absences;
- b. Absences preceding or following rest days, holidays, vacation, and any other pattern;
- c. Absences exceeding sick leave entitlements;

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- d. Frequent lateness to work or early departures; or
- e. Three occurrences of absences within any thirty calendar day period or four occurrences of absence within any six month period, with an "occurrence" being consecutive work days that an employee does not report for work due to illness or injury.

Absences attributable to an authorized FMLA leave are not included in assessing unsatisfactory attendance under this Procedure.

5. Employees who are covered by a Collective Bargaining Agreement and are identified as having an unsatisfactory attendance record as defined above are subject to progressive discipline. Its purpose is to allow the employee sufficient time and notice to correct his/her unacceptable attendance. It also puts the employee on notice of the consequences of his/her actions through the assessment of progressively more severe discipline, as described below.

- a. An employee who has been identified as having an unsatisfactory attendance record will receive a Warning Letter informing him/her that he/she is not in compliance with MNR's attendance policy, and that continued unsatisfactory attendance will result in progressive disciplinary action up to and including discharge.

- b. After an employee has received such a Warning Letter, his/her attendance record will be closely monitored. During the next 12 months, more than two occurrences of sick leave use within any 60 day period will subject him/her to disciplinary charges for unsatisfactory attendance.

- c. After each Notice of Investigation is sent, the 12 month attendance monitoring period will start again. If, during that period, the employee is absent on more than two occasions in any 60 day period, another Notice of Investigation will be sent and the next step of progressive discipline will be assessed. The guidelines for the assessment of progressive discipline for unsatisfactory attendance are:

1st Notice of Investigation: If the employee admits guilt and signs a waiver of trial, the discipline shall be a reprimand. If the employee proceeds to trial and is found guilty, the discipline shall be a five-day suspension: this will be deferred for one year, but the employee will have to serve such suspension if, during that year, he/she is assessed discipline for any other offense.

2nd Notice of Investigation: If the employee admits guilt and signs a waiver of trial, the discipline shall be a five day actual suspension. If the employee proceeds to trial and is found guilty, the discipline shall be a 10 day actual suspension. The previously assessed five day deferred suspension will also be served.

3rd Notice of Investigation: If the employee admits guilt and signs a waiver of trial, the discipline shall be a 10 day actual suspension. If the employee proceeds to trial and is found guilty, the discipline shall be a 20 day actual suspension.

4th Notice of Investigation: If the employee admits guilt and signs a waiver of trial, the discipline shall be a 20 day actual suspension with a notice that this is the employee's "last chance." If the employee proceeds to trial and is found guilty, the discipline shall be termination.

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6. Employees are not permitted under this Procedure or any Collective Bargaining Agreement to "mark off until further notice" (i.e., to declare their intention to take sick leave indefinitely). Employees must follow, on a daily basis, the departmental procedures for providing notification that they are requesting sick leave. Exceptions to this requirement may be made upon recommendation by the MNR Occupational Health Services Department after its evaluation of the employee's medical records. Compliance with the proper notification procedures does not excuse the absence from work. Failure to provide the appropriate department official with timely, proper notification may result in the denial of sick pay for the day.
7. Employees who are absent from work for more than 30 days without authorization, or without obtaining an approved FMLA-sanctioned leave of absence, or without authorization as provided for in MNR procedures, will be subject to disciplinary action for continued unauthorized absence and job abandonment. These employees will forfeit their seniority, and their employment with MNR shall be terminated.
8. Management may notify employees that they will be required to submit a doctor's note explaining an absence upon their return to work. MNR's receipt of the note does not excuse the absence, nor does it prohibit MNR from including the absence when reviewing the number of sick occurrences; it indicates only that the employee may receive sick pay for the day referenced in the note.
9. The progressive discipline steps outlined in this Procedure apply only to employees who are not subject to other discipline and have provided timely notice to MNR of any absence. Employees who have committed other infractions may, at management's discretion, receive greater discipline because of their unsatisfactory attendance.
10. Employees who fail to report for a scheduled tour of duty without providing prior notification may be subject to disciplinary action up to and including dismissal; the progressive discipline elements in this Procedure will not apply to such employees. Employees who fail to notify MNR of their absence will not be entitled to sick leave pay.
11. Attendance records and discipline assessed for unsatisfactory attendance will be important factors in evaluating craft transfer requests and applications for promotion.
12. As an encouragement to perfect attendance, if the employee uses less than one-half of his total sick leave entitlement throughout his career of 10 years or more, he/she will receive a payout representing 50% of the value of those unused days upon his/her retirement or resignation.

B. STEPS

1. This Procedure will be published annually and posted on all company bulletin boards. Employees are presumed to be on notice as to the contents of this policy.
2. The immediate supervisor and/or the department designee will monitor attendance and maintain the documents that record hours and days worked, vacation and personal leaves, and absences from the workplace. These records and all associated documents are transferred to follow the employee who changes positions, work locations, etc.
3. Managers should seek guidance from the Labor Relations Department when initiating disciplinary actions for unsatisfactory attendance.



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C. ADMINISTRATION

1. The Director, Labor Relations is responsible for the administration and interpretation of this policy as it applies to employees covered by a Collective Bargaining Agreement.

This procedure sets forth guidelines for management and confirms attendance obligations of employees. It does not constitute a contract of employment, express or implied. Metro-North Railroad reserves the right to amend or withdraw this procedure at any time, although this procedure will apply to events that precede such amendment or withdrawal.

Approved: R. Burney, Director, Labor Relations, January 1, 2005

P. Cannito, President, January 1, 2005