



REFERENCE #:	LR-01.01
ISSUE DATE:	12/22/2021
EFFECTIVE DATE:	12/23/2021
SUPERSEDES:	LR-01.01, 08/01/2021

## Discipline Policy for Contract Employees

### I. Purpose

Metra is committed to a workplace where our employees work safely, honestly, and treat others with respect. The objective of this policy is to provide a meaningful and effective process to address rule and policy violations in a fair, consistent manner that is in accordance with labor agreements and employee conduct rules.

The purpose of this policy is to put forth Metra’s expectations concerning the administration of discipline and a process for dealing with offenses. The policy is designed to provide employees an opportunity to adjust their behavior, to improve, and succeed through an open process as Metra addresses violations of company rules in an appropriate and effective manner. Coaching, meeting, and training are tools to reinforce the importance and understanding of safe and professional conduct in the workplace.

In some situations, discipline is necessary to deter unsafe and unprofessional behavior. This policy outlines the handling of violations in a consistent manner, reinforcing our mutual commitment to a safe, professional workplace, and our individual commitment so that every one of us returns home safely at the end of the workday.

### II. Applicability

The Discipline Policy for Contract Employees (Policy) applies to Metra contract employees and provides standards for addressing rules violations.

### III. Definitions

- A. **Actual Suspension** – A suspension recorded in an employee’s personnel file, that results in actual time away from work and loss of pay.
- B. **Classification** – Whether a violation is Standard, Serious, or Stand-Alone Dismissible.
- C. **Discipline Committee** – Committee chaired by a Deputy Executive Director or designee, to determine the appropriate classification of an alleged violation. The Committee does not determine if the employee is innocent or guilty.
- D. **Hearing Officer** - Non-contract manager responsible for conducting an investigative hearing, either the Lead Discipline Officer or a designee.

- E. Lead Discipline Officer:** Carrier Officer responsible for administration of this Policy, and scheduling, conducting, and administering hearings under the applicable collective bargaining agreement.
- F. Manager:** a non-contract employee as delegated by the end user department with supervisory authority
- G. Metra** – the service mark of the Northeast Illinois Regional Commuter Railroad Corporation
- H. Review Period** – The period of time beginning on the date that discipline for a violation is assessed and ending as provided in this Policy.
- I. Record Suspension** – A suspension recorded in an employee’s personnel file, but that does not result in actual time away from work or loss of pay.
- J. Risk-Reduction Education** – An alternative to the formal discipline process.
- K. Step Number:** A number assigned to an alleged violation, reflecting the number of alleged or assessed violations on an employee’s record within the current Review Period for the purpose of determining the progressiveness of discipline which may be assessed.

#### **IV. Requirements**

##### **A. General**

1. Violations of Metra safety, employee conduct, General Code of Operating Rules, Federal Railroad Administration, operating rules, contracts, or policies, including Metra’s system safety plan programs and procedures, by employees will be addressed as provided in this Policy.
2. Formal discipline is not assessed until:
  - a. An internal hearing is held, where an employee is entitled to be represented by their union and present witnesses, or
  - b. An employee waives their right to a formal investigation.
3. As used in this Policy, a Review Period may be revised subject to the following conditions:
  - a. If an employee commits an additional violation during a Review Period, they may be subject to more discipline as provided in this Policy.
  - b. Only an employee’s time in service is credited toward a Review Period. If an employee is on leave, furlough, or otherwise not in Active status during the Review Period, such time does not count toward the Review Period. The Review Period resumes when the employee returns to Active status.
4. Under managerial discretion, an employee may be required to complete an Employee Assistance Program (EAP) intake interview in order to waive an investigative hearing.
  - a. This requirement will be reflected in the waiver. The waiver will include the contact information of the EAP provider, and instructions on how to schedule the interview.

- b. This interview must be scheduled by the employee within 72 hours of signing the waiver, and the interview must occur within seven calendar days from date of scheduling.
- c. Failure to comply with the terms of the waiver may result in disciplinary action
- 5. At the discretion of either Deputy Executive Director, a Waiver of Investigation may provide for measures not explicitly covered in this Policy.
- 6. Except as otherwise provided in this Policy, departmental requirements govern craft-specific attendance requirements
- 7. Each department is responsible for reporting to the Discipline Committee any pending or potential investigations, along with a recommendation as to the appropriate Classification of the alleged violation
- 8. A Notice of Investigation may be issued before or after the Discipline Committee considers the alleged violation. The Lead Discipline Officer, or their designee, is responsible for reviewing and issuing all Notices of Investigation.
- 9. The Discipline Committee reviews the recommended Classification and determines whether it is appropriate for the allegation(s). The Discipline Committee forwards all approved Classifications to the Lead Discipline Officer.
  - a. The Discipline Committee may only approve a Classification which is consistent with the discipline outlined in this Policy.
- 10. The Lead Discipline Officer, or their designee, is responsible for all administrative tasks associated with hearings convened under collective bargaining agreements, including scheduling hearings and issuing relevant notices.
- 11. The Lead Discipline Officer may take on the role of a Hearing Officer and conduct investigative hearings.
  - a. If the Lead Discipline Officer has direct knowledge of the violation, any other conflict of interest, or is otherwise unavailable, an alternate Hearing Officer is selected to conduct the investigative hearing in their place.
- 12. At the conclusion of the hearing, the Hearing Officer is responsible for reviewing the transcript and the exhibits, and making a determination with regard to discipline assessment. If discipline is assessed, the Hearing Officer issues the Notice of Discipline.
  - a. After conducting an investigative hearing and reviewing the transcript, the Hearing Officer may determine that a deviation from the Policy is appropriate. The Hearing Officer states that deviation in their findings report, and describes why the mitigating or aggravating factors justify the deviation. The Hearing Officer notifies the Discipline Committee of any deviations.

## **B. Progressiveness of Discipline**

- 1. Each Standard and Serious Violation (see Section IV.C. Classification of Violations) assessed within a Review Period counts as one step in a discipline progression series.
- 2. The discipline assessed for a violation is generally determined by the step number of the violation, and its Classification. Deviation from the Policy is only allowed as described in Section IV.A. General.
- 3. An alleged Standard or Serious Violation committed by an employee without a current active Review Period is a Step 1 violation.

4. The second, third, and fourth alleged violation within a Review Period is a Step 2, Step 3, or a Step 4 violation, respectively.
5. A fifth alleged violation within a Review Period is a Step 5 violation. A Step 5 violation may result in a dismissal.

## **C. Classification of Violations**

### **1. Standard Violations**

- a. A Standard Violation is a violation of rules or procedures that:
  - i. Do not subject an employee or others to potentially serious injury or fatality; and
  - ii. Do not otherwise meet the criteria for a Serious Violation or a Stand-Alone Dismissible Violation.
- b. An employee who is assessed a Step 1 Standard Violation receives a formal reprimand with a Review Period of 24 months, or if the formal discipline investigation is waived, 12 months.
- c. An assessed Step 2 Standard Violation results in a Record Suspension of 10 days with a Review Period of 24 months, or if the formal discipline investigation is waived, 12 months.
- d. An assessed Step 3 Standard Violation results in a Record Suspension of 20 days, with a Review Period of 24 months, or if the formal discipline investigation is waived, 12 months.
- e. An assessed Step 4 Standard Violation results in a Record Suspension of 30 days, with a Review Period of 36 months, or if the formal discipline investigation is waived, 24 months.
- f. An assessed Step 5 Standard Violation may result in dismissal.

### **2. Serious Violations**

- a. Serious Violations include, but are not limited to:
  - i. A violation of any work rule or procedure that is designed to protect employees, the public, and others from a potentially serious injury or fatality. Many of these rules and procedures are identified in departmental publications.
  - ii. A violation of the Drug and Alcohol Policy HR-01.14, except as provided in Section IV.C.3 of this Policy.
  - iii. A violation of the Equal Employment Opportunity Policy HR-01.07
  - iv. A failure to report a DUI (Driving Under the Influence) or DWI (Driving While Intoxicated) conviction in a timely manner when required to do so by rule or company policy.
  - v. Failure to follow instructions.
  - vi. Late reporting of an accident or injury. However, an employee is not disciplined for reporting a muscular-skeletal injury after the prescribed time period, provided (i) the injury is reported within 72 hours of the probable triggering event, (ii) the employee notifies the Manager before seeking medical attention, and (iii) the medical attention verified that the injury was most likely linked to the event specified.

- vii. A verbal altercation, defined as boisterous or quarrelsome language that does not otherwise rise to a threat of violence.
- b. An employee who is assessed a Serious Violation without an active Review Period, or is assessed their initial Serious Violation within a Review Period receives a 30-day Record Suspension with a Review Period of 36 months.
  - i. An employee may qualify for a reduced Review Period of 24 months for a Serious Violation if they:
    - a. Have at least three years of service; AND
    - b. Have no record of discipline in the three-year period immediately preceding the Serious Violation.
  - c. Two or more Serious Violations within a Review Period may result in dismissal.

### **3. Stand-Alone Dismissible Violations**

- a. Stand-Alone Dismissible Violations include, but are not limited to:
  - i. Theft or any other fraudulent act that may be evidenced by the intent to defraud Metra by taking Metra monies or property not due.
  - ii. Dishonesty about any job-related subject including, but not limited to, falsification or misrepresentation of an injury, abuse of FMLA leave, or other leave privileges.
  - iii. Conduct leading to a conviction, if the conviction is substantially related to the employee's position or if the continuation of employment would pose an unreasonable risk to Metra property or the safety and welfare of other Metra employees, passengers, or the general public. This includes a plea of guilty, deferred adjudication, or any plea that results in a conviction where sentencing is delayed or suspended, or the conviction is subsequently modified or reduced.
  - iv. Refusal to submit at any time to required testing for drug or alcohol use, adulterations of sample, second violation of the Drug and Alcohol Testing Policy HR-01.15 within ten years (or as governed by the applicable collective bargaining agreement), or failure to comply with instructions of the Medical Department.
  - v. Actual or threatened violence in the workplace or instigation of a serious altercation. This includes possession of weapons and the threat of using weapons.
  - vi. Insubordination.
  - vii. Conscious or reckless indifference to personal safety or safety of others or the public; indifference to duty; intentional destruction of Metra property; or malicious rule violations.
  - viii. A rule violation that could or does result in a serious collision or derailment, serious injury to another employee or the general public, fatality, or extensive damage to Metra or public property.
  - ix. Unauthorized absence (AWOL) of five or more consecutive days.
  - x. An aggravated violation of the Equal Employment Opportunity Policy HR-01.07
  - xi. Failure to report an accident or injury.
  - xii. Multiple alleged Serious Violations committed during the same tour of duty.
  - xiii. Tampering with a safety device.

#### **D. Risk-Reduction Education (RRE)**

1. Reducing risk is the foundation of Metra's safety efforts. By identifying and controlling the possibilities of risk, Metra and its employees can help ensure a safe workplace, where everyone returns home safe at the end of each workday. RRE allows employees, their representatives, and their Managers to enhance their understanding of risk, increase education and awareness of the best ways to control risk of exposure, change employees' behavior, and voluntarily solve problems rather than escalate to a formal discipline process.
2. General eligibility requirements:
  - a. RRE eligibility is up to Metra's discretion and depends on the circumstances surrounding an incident, and any other relevant facts. To avoid formal discipline, an eligible employee must accept responsibility for the incident in writing, and actively participate in the RRE process.
  - b. RRE is not available for missed call violations and layoff on call violations.
  - c. RRE is not available for stand-alone dismissable violations
  - d. Employees are not eligible for RRE if they have:
    - i. An RRE completion date in the previous 12 months;
    - ii. A violation (formal discipline or RRE) of a similar nature in the previous 24 months;
    - iii. An assessed a Step 2 Violation in the current review period;
    - iv. An assessed Serious Violation in the current review period; or,
    - v. Been approved for an RRE plan in the previous 36 months, but failed to successfully complete the plan
3. Process
  - a. RRE will be approved by the Manager on a case-by-case basis.
    - i. A Manager may pre-approve and offer RRE to an employee for an alleged violation.
    - ii. If the employee is not offered RRE, the employee may request RRE from their Manager within seven days of receiving a Notice of Investigation.
    - iii. A request for RRE will not be considered an admission of guilt, and will not be referenced in an employee's record or during a formal investigation if one were to be convened.
    - iv. If approved, the Manager will provide to the employee an RRE acknowledgement form.
  - b. Once the employee receives the RRE acknowledgement, they must sign and return it within 72 hours, but no later than 24 hours before the start of the investigative hearing. In this acknowledgement, the employee must waive their right to a formal investigation, accept responsibility for the rule violation, and agree to fully participate in RRE.
    - i. Upon signing a RRE Acknowledgement, the employee will not be assessed discipline for the inciting violation. However, If an employee fails to fully participate and complete the RRE process, they may be subject to additional disciplinary action up to and including dismissal.
  - c. Within 14 days of signing the acknowledgement, the employee and the Manager meet to complete the RRE packet. The RRE packet assists the Manager in leading a discussion on the recent conduct and creating an action plan to address it.
    - i. Employees must schedule meetings to minimize service, availability, and cost

- impacts to Metra.
- ii. The Manager may direct the employee to complete some portion of the RRE packet before the meeting.
  - iii. The action plan should have a timeline of no longer than 30 days.
- d. The RRE process is finalized once the employee completes all aspects of the action plan, and the Manager acknowledges completion.
- i. The Manager must notify the Lead Discipline Officer once the RRE process is finalized.
  - ii. Completion of the RRE process will be documented in the employee's record.
- e. The employee's meeting with the Manager is considered training. The employee is compensated for the meeting pursuant to the existing rules under the applicable collective bargaining agreement.

#### **E. Confidential Close Call Reporting System (C<sup>3</sup>RS)**

1. An employee may be protected from disciplinary action if they submit an eligible C<sup>3</sup>RS report, and the report is accepted by the PRT Committee
2. Criteria for close call reports acceptance, and reporting guidelines can be found in the applicable C<sup>3</sup>RS Agreement.

#### **V. Enforcement**

Failure to comply with this Policy could result in disciplinary action up to and including dismissal. The interpretation and application of this Policy, as well as any exceptions included in this Policy, will be administered by either of Metra's two Deputy Executive Directors.

#### **VI. Exhibits**

Exhibit A: Violation Handling Matrix

#### **VII. Addendum**

Addendum A: Leniency Reinstatement

#### **VIII. Approval**

*(Signature on file)*

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James M. Derwinski, CEO/Executive Director

12/22/2021

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Date

# Discipline Policy for Contract Employees, continued

## METRA POLICY

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REFERENCE #: LR-01.01  
ISSUE DATE: 12/22/2021  
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SUPERSEDES: LR-01.01, 08/01/2021

### IX. History

Reference Number	Title	Effective Date
LR-01.01	Discipline Policy for Contract Employees	09/01/2020
LR-01.01	Discipline Policy for Contract Employees	08/01/2021
LR-01.01	Discipline Policy for Contract Employees	12/22/2021

**Exhibit A: Violation Handling Matrix**

Classification of Violation	Risk – Reduction Education	Formal Reprimand and Suspension	Dismissal
<p><b>Standard Violation</b> <i>Outlined in Section IV.C.1</i></p>	<ul style="list-style-type: none"> <li>• May be available as defined in Section IV.D.2.</li> <li>• Requests must be made in writing and approved by the Manager</li> <li>• Not available for missed call and layoff on call violations.</li> </ul>	<ul style="list-style-type: none"> <li>• First Standard Violation: Formal Reprimand with a 24-month Review Period (12 if waived).</li> <li>• Additional Standard Violation within a Review Period:                         <ul style="list-style-type: none"> <li>- Second: 10-day Record Suspension with a 24-month Review Period (12 if waived).</li> <li>- Third: 20-day Record Suspension with a 24-month Review Period (12 if waived).</li> <li>- Fourth: 30-day Record Suspension with a 36-month Review Period (24 if waived).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Fifth Standard Violation within the Review Period may result in dismissal.</li> <li>• Fifth violation of any kind within the Review Period may result in dismissal.</li> </ul>
<p><b>Serious Violation</b> <i>Outlined in Section IV.C.2.</i></p>	<p>May be available as defined in Section IV.D.2.</p>	<p>First Serious Violation: 30-day Record Suspension with a 36-month Review Period. (Employees may qualify for a 24-month Review Period as described in Section IV. C.2)</p>	<ul style="list-style-type: none"> <li>• Additional Serious Violations within the Review Period.</li> <li>• Or, multiple Serious Violations in the same tour of duty.</li> </ul>
<p><b>Stand Alone Dismissible Violation</b> <i>Outlined in Section II.4</i></p>			<p>Stand-Alone Dismissible Violations may result in dismissal.</p>



## **Addendum A: Leniency Reinstatement**

### **I. Applicability**

This addendum applies only to contract employees who were terminated for cause or have had their seniority removed under a self-executing provision of the applicable agreement.

### **II. Requirements**

1. The employee or their union representative must submit requests for leniency reinstatement in writing to the Labor Relations Department before a claim connected to the termination is filed for arbitration with the National Railroad Adjustment Board (NRAB) or another board of adjustment formed under the Railway Labor Act (RLA).
2. Metra considers requests for leniency reinstatement on a case-by-case and is provided by Metra on a discretionary basis.
3. If Metra approves the request for leniency, the employee and their union representative must sign a Leniency Reinstatement Agreement ("Agreement"), where minimally:
  - a. The employee accepts full responsibility for the rule(s) violation(s).
  - b. The employee and their union representative:
    - i. Agree to withdraw all claims and grievances brought under the Railroad Labor Act related to the underlying dismissal.
    - ii. Agree that they will not appeal any issue that led to the underlying dismissal and the leniency reinstatement.
    - iii. Agree to comply with all terms and conditions of the Leniency Reinstatement Agreement.
    - iv. Agree that the employee is not entitled to, and will not seek, back wages for the period from the time of the charges, through the investigation and at all times during the termination.
4. An employee failing to meet the requirements of the Leniency Reinstatement Agreement reverts to dismissed status without a right of a formal investigation and accordingly, waives any further rights under the Collective Bargaining Agreement.
5. Metra grants leniency on a last chance basis.
  - a. The employee remains on probation for two years, starting from the date the employee returns to service after meeting all requirements of the Leniency Reinstatement Agreement.
  - b. If the employee commits any rule violation during the probationary period (other than attendance violations), the employee automatically reverts to dismissed status without a formal investigation.
  - c. Employee attendance violations during the probationary period will be addressed under the regular progressive discipline policy.
6. Metra does not consider time that the employee was off work during dismissal, pending the investigation, and attending investigative hearings as time in service for the purpose of calculating entitlement to vacation, benefits, or other leave. This time off work is treated as if it were an actual work suspension.

