

**THE PENNSYLVANIA RAILROAD**

**LONG ISLAND RAIL ROAD**

**THE BALTIMORE & EASTERN RAILROAD**



**PROCEDURE TO BE FOLLOWED  
IN THE  
HANDLING OF DISCIPLINE**





## FOREWORD

It is, and has always been, the policy of this Company to give an employe a fair and impartial trial before applying discipline. The purpose of this is to make sure, in the interest of the Company no less than of the employes, that employes will not be subjected to discipline arbitrarily or unfairly. It is also intended to protect the Company in the event that claims are subsequently presented against it by disciplined employes on the alleged ground that the discipline was unfairly or improperly applied and should be set aside.

However, it is not always easy to determine in detail what is necessary to constitute a fair and impartial trial. A procedure which seems fair enough to one man will not always satisfy another. Moreover, a trial which is in fact entirely fair and impartial may not afterwards appear to be so, unless a full and adequate record is made at the time and unless this record shows all the precautions which were taken to insure fairness and protect the interests of the employe. Failure to take such precautions in the small details of procedure and failure to make a record showing that they were taken may frequently result either in a hardship to the accused employe, on the one hand, or in the invalidity of proper and necessary disciplinary action, on the other.

In order, so far as humanly possible, to obviate these difficulties and insure that each employe who is suspected of any action or omission, which if established would be a fair and proper ground for discipline, may be accorded full notice and opportunity to defend himself and present his side of the case, the following instructions are now issued, outlining a procedure in discipline cases which in its safeguards for the employes is more stringent in many instances than the provisions of the various schedules of regulations in effect on this railroad. This

has been done in order to provide, so far as possible, a procedure for handling discipline matters that will satisfy the most exacting conception of what constitutes a fair and impartial trial.

These instructions are to be followed by the officers of this Company in handling discipline cases, but insofar as they go beyond the provisions of the various schedules of regulations in effect on this railroad are not to be construed as in any sense a contract between the employes and the Company or as enlarging the rights to which the employes are entitled under the respective schedules of regulations.

April, 1942.

# **PROCEDURE TO BE FOLLOWED IN THE HANDLING OF DISCIPLINE**

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## **HOLDING EMPLOYEES OUT OF SERVICE**

- 1. A.** When a major offense, as that term is used in the schedules of regulations, has been committed, an employe suspected by the management to be guilty thereof may, after the occurrence of the offense, be held out of service pending trial and decision, and shall be promptly notified to that effect by the management in writing, either by delivering such notice to him personally or by sending or mailing it to his last known address.  
**B.** In the case of an offense other than a major offense, no employe may be held out of service prior to trial and decision.

## **INVESTIGATION**

- 2.** If, in the opinion of the management, an investigation is needed in order to collect the information which will be presented at the trial, such investigation may be held in the manner most convenient to the management and the management may question and take the statements of any person, including employes, provided, however, that before any employe is questioned in the course of such investigation he must be informed that during the questioning he is entitled to be accompanied by one or more persons of his own choosing without expense to the Company.

3. At the end of each employee's statement taken during the course of such investigation, there must appear the following to be signed by the employee:

"This investigation has been conducted in a fair and impartial manner. I have read the above statement in its entirety and it is true and correct to the best of my knowledge."

4. Each employee who is questioned during the investigation must be given a copy of his own statement, if he requests it, but he need not be given copies of statements taken from other employees. Where the applicable schedule of regulations or agreement provides that the Local Chairman will, upon request, be furnished with copies of all statements resulting in charges being filed, this requirement must be complied with.
5. An attempt must be made, in the course of the investigation, to obtain all the essential facts relating to the occurrence under investigation.

## **THE CHARGE AND NOTICE OF TRIAL**

6. If the management, with or without such prior investigation as is covered by paragraphs 2 to 5, inclusive, above, decides to charge an employee with an offense which may warrant the application of discipline, and the employee signifies that he does not desire a trial, he must then be requested to sign a statement in the following form:

"I hereby waive any right I may have to a trial by the Pennsylvania Railroad Company for the following offense with which I am charged: (Here state the charge, keeping in mind paragraph 8 of these instructions.)

(Signature)

(Signature)

Witness"

7. **A.** If the employee does not sign a statement in the form set forth in paragraph 6 above, there must be served upon him a

written notice containing the following: (If the employee is in prison, see paragraph 10 of these instructions.)

- (1) The specific charge or charges lodged against him;
- (2) Notice to attend the trial in connection with the charge or charges specified;
- (3) The date, time and place of the trial, allowing the employee a reasonable time to prepare his defense;
- (4) Information that he may, if he desires, be accompanied by one or more persons of his own choosing, without expense to the Company;
- (5) Information that he may produce witnesses in his own behalf, without expense to the Company, and that he or his representative may cross-examine witnesses;
- (6) Notice that he will be expected to be present throughout the entire trial.

**B.** The notice provided for in paragraph 7-A above may be served upon the accused employee in either of two ways:

- (1) It may be served upon him personally, in which event a receipt therefor must be taken; or
- (2) It may be served upon him by registered United States mail, addressed to his last known address.

If, after every reasonable effort has been made to locate the accused employee, it is found impossible to serve the notice upon him through these methods, the trial may be held in his absence.

**8. A.** In wording the charge set forth in the notice to the employee, care must be taken to specify an offense which, if proven, would justify the imposition of discipline. If the management believes that the employee may be proved guilty of more than one offense, each offense must be separately specified in the notice to the employee.

**B.** The charge or charges must be concisely and plainly stated, and must be so worded that the accused employee will be informed of the exact nature of the offense with which he is charged. If the employee is charged with the violation of any operating rule, the rule must be specifically referred to by number in the notice.

**9.** If for a valid reason communicated to the management the accused employe is unable to attend the trial on the day set for it, the trial must be postponed to another date and the accused employe must be given written notice of the postponement. Such notice may be served upon the employe personally, in which event a receipt therefor must be taken, or it may be served by registered United States mail. Nothing herein shall derogate from the right of the management to hold the trial in the absence of the employe under the circumstances set forth in paragraph 7-B above.

**10. A.** Confinement in prison shall not be considered a valid reason for failure to attend the trial. However, if the confinement is for 60 days or less, the trial must be postponed until the employe is released from prison. If he is confined for more than 60 days and the responsible officer considers it advisable to hold the trial before his release, an attempt should be made to do either of the following:

(1) Hold the trial at the prison in the presence of the accused employe;

(2) Have the accused employe released temporarily in the custody of the police.

**B.** If it is impossible to hold the trial at the prison or to have the accused employe released as set forth in A(1) and A(2) above, a notice should be served upon the accused employe by registered United States mail, containing the following:

(1) The specific charge or charges lodged against him;

(2) The date, time and place of the trial, allowing the employe a reasonable time to prepare his defense;

(3) Information that he may, if he desires, be represented by one or more persons of his own choosing, without expense to the Company;

(4) Information that his representative may produce witnesses in his behalf but without expense to the Company, and may cross-examine witnesses;

(5) Request that the accused employe return the enclosure hereinafter referred to properly filled out, in the envelope provided.

Enclosed with this notice there must be a stamped addressed return envelope and a statement prepared in the following form for the accused employe's signature:



“I understand that the Pennsylvania Railroad Company  
 (Date) (Time and place)  
 will conduct a trial on.....at.....  
 in connection with the following offense with which I have  
 been charged: (Here quote charge.).....  
 (Name of  
 “I desire to be represented at that trial by.....  
 representative)  
 .....and I shall notify him to be present.”

**C.** If the accused employe fills out the foregoing notice and designates in the space therein provided a representative, the trial shall proceed at the date, time and place specified in the notice, in the presence of the representative so designated by the accused employe, and such representative shall have the same right to present evidence and to cross-examine witnesses as the accused employe would have if present; if the accused employe does not transmit to the Company the foregoing designation of a representative, his failure to do so shall be taken as a waiver and consent by him that the trial may proceed in the absence of himself or a representative.

## TRIAL

- 11. A.** Every person whose statement or testimony is made a part of the record must be offered for cross-examination.
  - B.** If the testimony of any witnesses conflict, arrangements must be made to examine such witnesses in each other's presence at the trial.
  - C.** An attempt must be made to obtain clear and responsive answers from all witnesses.
  - D.** If the accused employe's discipline record is to be taken into consideration in determining the discipline, if any, to be applied, such discipline record must be made a part of the trial record.
  
- 12.** At the conclusion of the trial, the accused employe, if present at the trial, must be asked:
 

“Has the trial been conducted in a fair and impartial manner?”

If the answer is no, the employee must be asked to specify the particular or particulars in which, in his opinion, the trial has not been conducted in a fair and impartial manner, and thereupon every reasonable effort must be made to remove the cause of the employee's objection; but if the employee declines to specify the particular wherein he claims that the trial has not been conducted in a fair or impartial manner, his failure so to specify shall be made a part of the record.

**13.** A trial may be recessed at any stage thereof to a later hour or day, specified at the time of such recess, and may be resumed at such specified later hour or day if in the opinion of management a valid reason exists for such recess.

**14. A.** Every effort must be made at the trial to bring out all facts relative to the offense with which the employee is charged. If new facts are developed at the trial which may materially affect the decision as to whether the employee is guilty or innocent of the offense with which he has been charged and an investigation into such facts is believed by management to be desirable, the trial should be recessed for the purpose of making such investigation.

**B.** Facts and documentary evidence which are not a part of the trial record may not be relied upon by management in support of any discipline that is applied.

**15.** A verbatim stenographic record must be made of the entire trial proceedings, and such stenographic record, together with any papers, documents or photographs, introduced in evidence at the trial shall constitute the trial record.

The accused employee, when present at the trial, must be shown a copy of the trial record and permitted to read it after which he must be requested to sign his name at the bottom of each page of the record and to sign a statement at the bottom of the last page in the following form:

(No. of)

"My signature on this and the preceding \_\_\_\_\_ pages of this record signifies that I am satisfied that it is an accurate record of my trial."

If the accused employee was not present at the trial or if he

refuses to sign any sheet of the trial record and the statement quoted above, the stenographer who has transcribed such record shall make affidavit to the effect that he was present at the trial, took verbatim notes of the proceedings, transcribed those notes accurately and that the copy to which the affidavit is attached is a true and correct copy of the trial record.

A true copy of the trial record must be given either to the accused employee or his representative.

In presenting his case upon appeal the employee must be permitted, if he so desires, to be accompanied by one or more persons of his own choosing, without expense to the Company. A verbatim record of the appeal hearing need not be made.

- 16. A.** Before any discipline is actually applied, Form G-32, "Notice of Discipline" must be served upon the employee either personally or by registered United States mail and there must be included on this form, as grounds for applying the discipline, a statement of the original charges insofar as they have been sustained at the trial.

**B.** An offense with which the employee has been charged but which is not supported by the trial record must not be referred to in the Form G-32 and it must not be used as a basis for applying discipline.

**C.** An offense with which the employee has not been charged in the notice sent to him in accordance with the provisions of the above must not be referred to in the Form G-32 and it must not be used as a basis for applying discipline even though it may be supported by the trial record.

- 17.** Whenever the discipline record of an employee has been introduced at the trial, made a part of the trial record and used in support of the discipline that is being applied, a statement to that effect must be included under the item "Outline of Offense" on Form G-32.

- 18. A.** The date on which management decides to apply discipline as a result of the trial must be a later date than the date on which the trial was completed, and the date appearing at the top of the Form G-32 and the effective date of the discipline must be later dates than the date on which the trial was completed.

**B.** If the discipline is dismissal, the effective date of dismissal, shown on the Form G-32, must be the same as the date appearing at the top of the form.

**C.** If the discipline is suspension, there must appear in the blank space on the Form G-32 following the words "I understand that the same will be made effective,"—the following statement: "ten days from the date of receipt of this notice."

**D.** Where the discipline to be applied is suspension, the time the employe is held out of service prior to the serving of the Form G-32 must be applied against the period of suspension and the Form G-32 should so state.

- 19.** No erasures should appear on the Form G-32. If corrections are necessary, a new form should be prepared.

## **APPEAL**

- 20. A.** If an appeal from discipline is presented after the expiration of the time limit prescribed by the applicable Schedule of Regulations, the person presenting such appeal must be notified in writing that the appeal is barred because it was not presented within the time limit prescribed by the Schedule of Regulations.

**B.** A similar notice must be given in the case of each subsequent appeal to higher officers.

- 21.** When an appeal from discipline has been made to the proper officer as provided for in the applicable Schedule of Regulations, this appeal shall act as a "stay" of application of discipline in all cases except where the discipline has been dismissal. If the original decision is upheld upon appeal, the discipline will then be placed in effect and appeals to higher officers shall not act as a "stay."

- 22.** In presenting his case upon appeal the employe must be permitted, if he so desires, to be accompanied by one or more persons of his own choosing, without expense to the Company.

- 23.** The decision reached upon appeal should be given to the employe in writing as promptly as possible.