

*****RESPONSE TO NEW CSXT ATTENDANCE POLICY*****

To: All Local Chairmen

CY: Membership via Local Chairmen

From: John Hancock

Subject: New Attendance Policy – CSX

This note will address:

1. Labor's notification from CSXT of the "change" in the policy;
2. Our review of the policy;
3. How the new law (RSIA) and the new CSRA will help and assist in time off;
4. Our plan of action to address the policy;
5. The authority of CSXT to issue such policy.
6. Safety

Please make copies of this Memo and distribute via bulletin boards and distribution e-mail lists

No. 1 – Labor's notification.

As you can see from the note from Myron Becker, CSXT HDO, which is attached below, we were made aware of the new policy on Saturday morning, virtually the same as everyone. We had heard rumors of a change in policy, but we were not advised of the changes, nor were we asked to give input from labor.

No. 2 - Our review of the policy.

As I read the new CSXT Policy, it will place an employee under review for any non-compensated mark-off in excess of one day in a rolling four week period. The policy reads, "...on 2 or more days..."

The new policy is harsh, and it does not take into account employees staying away from home extreme amounts of time, then taking minimum rest and going back to work.

No. 3 – How the new law (RSIA) and the new CSRA will help and assist in time off.

There are some protective benefits recently established that will assist us in time off; specifically,

A. The Law (RSIA)

1. RSIA requires 48 hours off and 72 hours off, respectively, when there are 6 and 7 days of continual starts
2. RSIA also extends time off when service exceeds 12 hours in a tour of duty
3. RSIA also restricts continual duty when limbo time is excessive.

B. The Consolidated Southern Region Agreement (CSRA)

1. Under the CSRA, there are options for early mark-off, late mark-up without monetary penalty **or attendance policy penalty**, adding an additional 10 hours of time "off" in connection with assigned "off days."

2. 6 and 2 fast pools. Where these pools are established, employees make the same amount of money in six days with two days off as compared to working a pool with no assigned off days. The individual can look 14 months in advance and know exactly when their off days will be. In connection with the 6 and 2 pools, we provided for a 14 hour early mark-off **without penalty in attendance policy**. This, in effect, can give an individual 3 or more days of scheduled time off, all without being subject to review in the attendance policy, as we wrote in the 14 hour early mark-off that there would be no penalty for such.
3. On the extra boards, we negotiated a no compensation penalty for RSIA mandatory lay-off (Don't forget the early mark-off and late mark-up).
4. We've agree to some different job assignments; for example at Greenwood, SC, LC Bob Glace has a local established as a 5 & 2 – 4 & 3, paying yard rate as this constitutes a five day local under the new agreement.
5. We've agreed to 6 & 2 rotating off day assignments.
6. We have some meet and turn jobs; this allows an employee to be home on his off duty time as compared to taking his off duty time at the away-from-home terminal in a motel.
7. Waiting time rule (as well as daily guarantee) on all assignments that have a call time (through freight, local freight and road switcher) which demands that a crew be moved to the opposing terminal within 10 hours of established call time. It also provides for additional pay after the sixth hour.

We envisioned that CSXT would eventually tighten-up its attendance policy; accordingly, as we negotiated the CSRA, we put in some contractually mandated off time that cannot be changed by a policy [as well as some monetary benefits].

Our Membership now needs to take advantage of those negotiated benefits. I hope all of you will also take the time to explain that the new CSRA was advance thinking in case CSXT issued a harsher attendance policy. **We were not asleep at the switch.** We had no idea that CSXT would do such, but we took our years of experience and applied it when negotiating the CSRA. Our forward thinking will now pay off for the Membership. It's better to be proactive rather than reactive.

No. 4 – Our plan of action to address the policy.

We will discuss our options with the other General Chairmen and the International and determine an action plan. We will advise.

No. 5 – What authority does CSXT have to issue such policy?

CSXT has the right to establish discipline and attendance standards, as long as such does not violate any contractually mandated provisions. The standards must be reasonable. We have arbitrated many cases on absenteeism, and the Boards have established guidelines with respect to reasonable standards in relation to mark-off for sickness (proof of). We also have a "letter" from CSXT that permits us to mark-off for bona fide sickness; however, it also reads that mark-off under false pretense can be dealt with differently.

With respect to a mark-off to attend to personal business, the arbitration boards have given great discretion to the Company. Arbitration boards have consistently held that attendance issues are considered a managerial right.

The only time that we can challenge such is when any policy is in conflict with the agreement.

The Railway Labor Act protects the employees from changes to wages, rules and working conditions by management except through the proper process (contractual changes). Working conditions are an important component in the Law (45CFR§152, Seventh of the RLA); however, working conditions are protected from change only if the [working] conditions can be characterized of monetary benefit to the employee. Attendance policy and discipline do not fall within that category; arbitration boards give such authority to management.

The foregoing illustrated our movement to address the new policy; realistically, it will be difficult. There was an arbitration decision about 10 years ago from Richard R. Kasher wherein all the BN General Chairman took issue with a new policy. Mr. Kasher advised that the railroad had authority to issue such policy; however, such policy must be reasonable.

Reasonable is in the "eye of the beholder," and we and CSXT are on opposite sides in that view. The question begs, "Realistically, what authority do we have to challenge such policy and what authority do we have to get it changed?"

No. 6 -- Safety

This year, there have been several tragic deaths of our Brothers and Sisters. I want to encourage the Membership to work safely so we can go home to our families. Working safely includes, but not limited to,

1. Compliance with all safety and operating rules. We cannot take short cuts to "hurry up and get the job done." You will be cited by CSXT for a rules failure, and you could possibly get injured or damage equipment. Only have one set of rules compliance in the same vein as have only one set of manners. Study the Company's Safety and Operating Rules and comply with the rules; they were written with the blood of our Brothers and Sisters
2. Take necessary time for heat/cold breaks
3. Report unsafe work conditions to CSXT verbally (train dispatcher, trainmaster, RFE, yardmaster) and via the unsafe work condition report. Ask for confirmation of receipt on each venue of notification.
4. Ask CSXT officers about application of rules and request interpretation in writing (LC to Division Manager).
5. We have negotiated with CSXT to have full time UTU Safety Officers on each division. Contact them, contact your legislative reps; they are charged with promoting a safe workplace and the reporting of unsafe working conditions. We, in the protective department (local chairmen and general chairmen), will assist.

++++
++++

Note from Myron Becker, CSXT-HDO to the John Hancock, GC

From: Becker, Myron [mailto:Myron_Becker@csx.com]
Sent: Saturday, July 31, 2010 9:01 AM
To: John Hancock; Willis, Johnny; Townsend, Jim (Internet); Pullen, Randy; Smith, Tony BLE (Internet); Thornton, Matt
Cc: Ingoldsby, Dave; Noell, Don; Mosley, James; Thompson, John Jr.
Subject: FW: T&E availability standards

Gentlemen,

In case you receive any calls on this issue, the following bulletin has been issued and reflects our discussions on this issue.

Myron

CSX TRANSPORTATION

SYSTEM BULLETINS/NOTICES

JULY 30, 2010

BULLETINS & NOTICES SYSTEM NOTICE 108

TO: ALL CSX EMPLOYEES

LOCATION: CSX TRANSPORTATION

EFFECTIVE: IMMEDIATELY

SUBJECT: NEW AVAILABILITY STANDARDS

THE NEW AVAILABILITY STANDARDS SUPERCEDE AND REPLACE ALL EXISTING ATTENDANCE MEASUREMENTS AS WELL AS SYSTEM REISSUE NOTICE 100, ITEM 3, DATED JULY 1, 2010.

MINIMUM AVAILABILITY

EMPLOYEES WHO ARE UNAVAILABLE FOR ANY NON-COMPENSATED REASON (OTHER THAN REST DAYS AND TIME OFF MANDATED BY THE HOURS OF SERVICE ACT, AS AMENDED BY THE RAIL SAFETY IMPROVEMENT ACT) ON 2 OR MORE DAYS IN A ROLLING 4-WEEK PERIOD WILL BE SUBJECT TO REVIEW.

NOTE: AVAILABLE TIME INCLUDES ALL COMPENSATED TIME OFF (INCLUDING VACATION, PERSONAL LEAVE, AND PERSONAL BUSINESS), AS WELL AS TIME MARKED-OFF FOR FMLA LEAVE OR FOR ANY OTHER MARK-OFFS PROVIDED BY LAW

EXISTING ATTENDANCE DISCIPLINE PROGRESSION PROCESS WILL NOT CHANGE.

* FIRST 2 ATTENDANCE FAILURES HANDLED WITH WARNING LETTERS.

* FIRST INVESTIGATION - 2 DAYS OVERHEAD FOR 6 MONTHS.

* SECOND INVESTIGATION - 5 DAYS ACTUAL SUSPENSION.

* THIRD INVESTIGATION - DISCIPLINE ASSESSED - UP TO DISMISSAL.

EMPLOYEE'S RECORD WILL CONTINUE TO BE REVIEWED FOR A PERIOD OF
THREE YEARS FROM THE CURRENT INCIDENT.