

Exhibit Book
Corporate Governance Committee Meeting
12/16/2015

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MTA Policies for Board Review and Approval Pursuant to PAL 2824 - Page 2

**MTA and its Agencies Policies Requiring Board Approval
Pursuant to Public Authorities Law Section 2824**

MTA Headquarters

THE

METROPOLITAN
TRANSPORTATION
AUTHORITY

FEDERAL SUBSTANCE
ABUSE POLICY

I. POLICY STATEMENT

As discussed in more detail in this Policy, the Metropolitan Transportation Authority (“MTA”) is fully committed to operating and maintaining an alcohol and drug-free workplace to provide a safe environment for employees of the MTA who, as part of their job duties, carry a firearm for security purposes (“Members”) and other employees of the MTA and the customers they serve.

The purpose of this Policy is to explain the responsibilities of all Members to maintain a drug- and alcohol-free workplace and to comply with applicable laws and MTA rules, as they may be amended. This Policy also describes the resources available to Members with drug and/or alcohol problems and explains the MTA’s commitment to encourage voluntary treatment before a Member's substance use compromises his or her or other's safety or jeopardizes the Member's continued employment with the MTA. This Policy also explains the circumstances and the manner in which the MTA may conduct drug and/or alcohol testing of Members in compliance with applicable laws and MTA rules. The MTA will follow the procedures set forth in 49 CFR Parts 40 and 655, unless otherwise stated herein.

The highlights of this Policy are set forth below.

A. Designated Employer Representative

The MTA has designated the responsibility for answering questions about this Policy to Assistant Deputy Chief John D’Agostino, MTA Police Department, Commanding Officer – Support Services Division, 347 Madison Avenue, 3rd Floor, New York, NY 10017. Such questions should be made in writing at the above address.

B. Covered Employees and Prohibited Conduct

This Policy applies to all employees of the MTA who, as part of their job duties, carry a firearm for security purposes (“Members”). A list of those job titles that are covered for purposes of this Policy is attached as Exhibit A.

As discussed more fully in this Policy, the following conduct is prohibited:

1. Reporting to work if under the influence of drugs or alcohol.
2. Using, manufacturing, distributing, selling, dispensing, possessing or using any controlled substances at any time, whether on or off duty, unless medically authorized in the manner set forth in the Policy. Under MTA Authority, a member may, however, possess controlled substances if required in the course of his or her duties.

3. Reporting to work if the Member has consumed alcohol within four hours of his or her duty time. If a Member is on-call, the Member may not consume alcohol during his or her specified on-call hours.
4. Possessing or consuming alcohol in the work place and consuming alcohol during work hours, including meal and break periods, unless such use is required in the course of his or her official duties, consistent with Police Department procedures.
5. Refusing to cooperate or intentionally interfering with the MTA's efforts to enforce this Policy, including but not limited to refusing to submit to a drug and/or alcohol test, leaving the scene of an accident prior to the administration of a drug and/or alcohol test required by the Policy or federal regulations, or tampering with the integrity of a breath or urine sample in connection with such tests or disclosing to an unauthorized person information relating to random drug and/or alcohol testing. A Member's inability to provide sufficient breath to complete an alcohol breath test or sufficient urine to complete a drug test, without an acceptable medical explanation for such inability, also constitutes a refusal.
6. Consuming alcohol for eight hours or until the employee undergoes a post-accident alcohol test following an accident, where the employee is required to take a post-accident alcohol test under this Policy.

C. How and When Testing May Occur

The MTA will perform drug and alcohol testing of Members consistent with the procedures in 49 C.F.R. Part 40 -- "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." Such testing procedures provide for, among other things, urine testing for the presence of narcotics, depressants, stimulants, hallucinogens and cannabis; the use of nationally-certified drug testing laboratories for urine screening; specific training requirements for the collectors of both urine and breath samples; the use of split samples in urine collections; the use of specific chain of custody methods for urine collections; the use of confirmatory tests for both urine and breath samples; and confirmation of a positive drug test result by a certified Medical Review Officer.

A covered employee may be randomly tested while on duty anytime for prohibited use of the five Controlled Substances defined in Section IV of this Policy: Cocaine, phencyclidine ("PCP"), amphetamines, marijuana, and opiates.

Drug and/or alcohol testing will be conducted (1) pre-employment, including after an absence from work of 90 consecutive days or more, (2) where there is reasonable suspicion, (3) randomly, (4) post-accident, (5) upon return to duty after a positive test, and (6) as a follow-up after return to duty. Members, by accepting or continuing employment, are deemed to have consented to drug and alcohol testing pursuant to this Policy and must submit to testing under federal law.

D. Consequences for Engaging in Prohibited Conduct

A Member violating or suspected of violating any of the prohibitions in this Policy may be subjected to any or all of the following: (1) drug and/or alcohol testing, (2) removal from his or her safety-sensitive position, and (3) administrative or disciplinary action up to and including dismissal. A Member will be considered to have failed an alcohol test if his or her Breath Alcohol Concentration is .04 or higher. MTA will remove such a Member from his or her position and refer him or her to a substance abuse professional. A Member with a Blood Alcohol Concentration of .02 or greater but less than .04 will be removed from his or her position. A Member will be considered to have failed a drug test if he or she has a verified positive urine test result. MTA may, in any event and under its own authority, dismiss any Member who violates this Policy. MTA may take such action under its own authority with or without conducting drug or alcohol testing.

E. Testing Performed by MTA

MTA may perform drug and alcohol testing not specifically required under the federal regulations. Such testing may include but is not limited to that required by the States of New York and Connecticut for qualification of individuals to police officer positions. Any such testing will be performed under the MTA's authority and not pursuant to federal law.

Specifically, drug testing required by FTA includes only testing for five controlled substances: Cocaine, phencyclidine ("PCP"), amphetamines, marijuana, and opiates. MTA may conduct testing for additional substances, but if such testing occurs, it is conducted under MTA's own authority and not under FTA authority or pursuant to FTA regulations.

F. Rehabilitative Resources

MTA makes several resources available to Members experiencing difficulties with drug and/or alcohol use. These resources are outlined in detail in this Policy. Members are encouraged to seek the assistance of the MTA's Employee Assistance Program before their job performance deteriorates or the illness affects the safe performance of their job.

II. GENERAL GUIDELINES

- A. Members must comply with all laws, agreements, rules, policies and regulations applicable to their employment, including but not limited to the collective bargaining agreement between the MTA and the Police Benevolent Association (“the PBA Agreement”), and must at all times satisfy the performance standards applicable to their employment.
- B. The MTA states expressly that nothing in this Policy prohibits it from taking administrative or disciplinary action, up to and including dismissal, and under its own authority, with or without conducting drug and/or alcohol testing, when there is a violation of, or reasonable cause to believe that there is a violation of, this Policy. The MTA also states expressly that this Policy does not create a contract, promise or contractual right, express or implied. The MTA reserves the right to change this Policy in whole or in part at any time.**

III. SCOPE

This Policy applies to all Members of the MTA’s Police Department. Compliance with this Policy is a condition of employment. Consent to drug and/or alcohol testing pursuant to this Policy is implied by accepting or continuing employment.

IV. DEFINITIONS

A. Substances

1. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.
2. Controlled Substances: FTA regulations require drug testing for the following five controlled substances: Cocaine, phencyclidine (“PCP”), amphetamines, marijuana, and opiates.
3. Drug: Any substance other than alcohol that has known mind or function-altering effects on humans, including but not limited to, controlled substances.
4. Intoxicant: Any agent that produces intoxication, such as a drug or toxic substance or alcoholic beverages.

5. Over-the-counter drug: Medication that does not require a prescription and that can be purchased from pharmacies or other retail establishments.
6. Prescription drug: Medication prescribed by licensed medical personnel or dentists for a specific course of treatment.

B. Personnel Classifications

1. Designated Employer Representative: An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or causes employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes.
2. Members: Employees of the MTA Police Department who perform a safety-sensitive function and who are required to comply with this Policy and with the alcohol and drug prohibitions and provisions in 49 C.F.R. Part 655 of the Federal Transit Administration ("FTA") regulations. This category includes positions, both represented and non-represented, requiring the Member to carry a firearm for security purposes.
3. Medical Review Officer ("MRO"): A licensed physician who receives laboratory results produced by the laboratory retained by the MTA to evaluate drug and/or alcohol tests, who has knowledge of substance abuse disorders, and who has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
4. Substance Abuse Professional ("SAP"): A licensed physician, or a licensed or certified psychologist, social worker, marriage and family counselor, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol- and drug-related disorders.
5. Supervisor: Any employee of the MTA who is responsible for supervising or monitoring the conduct or performance of one or more Members. This definition includes both represented and non-represented Supervisors.

C. Testing

1. Post-Accident: A drug and/or alcohol test administered following an accident as defined in Section VI(D)(1) of this Policy.
2. Pre-Employment: A drug test administered to all Members no more than 90 days before they commence or resume performing safety-sensitive duties for the MTA.
3. Reasonable Suspicion: When a Supervisor believes that a Member has used a prohibited drug and/or engaged in alcohol misuse. The suspicion must be based upon specific, contemporaneous, articulable observations of the appearance, behavior, speech or body odors of the Member.
4. Verified Positive Test Result:
 - a. For a drug test, a test result that was positive on an initial immunoassay test, confirmed by a gas chromatography/mass spectrometry assay and reviewed and verified as positive by a MRO in accordance with the procedures set forth in 49 C.F.R. Part 40 - "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."
 - b. For an alcohol breath test, an initial breath test performed on a Department of Transportation - approved "Evidential Breath Testing" device, with a result of **.04%** or higher, confirmed by a second breath test with a reading of **.04%** or higher.
5. Return to Duty: A test administered to a Member who has refused a test, received a verified positive drug test result, or a confirmed alcohol test result of .02 or more prior to resuming to safety-sensitive duties.
6. Follow-Up: Unannounced drug and/or alcohol testing of a Member who has been returned to service following a violation of this Policy as deemed necessary by the SAP. The number and duration of follow-up testing must be no fewer or shorter than the minimum requirements set forth in the regulations issued by the FTA.
7. Random: Unannounced and unpredictable drug and/or alcohol testing of a percentage of Members as governed by

the FTA. Members are placed in a pool and are selected for testing by a scientifically-valid method.

D. Resources

1. Employee Assistance Program ("EAP"): A confidential counseling program provided by the MTA where counselors (SAPs in the case of a Member who has failed or refused a drug and/or alcohol test) qualified by experience, education, and training counsel persons affected by alcohol and/or substance abuse problems and evaluate their progress in recovering from such problems.
2. Substance Awareness Training: A training course given by MTA and required for all Members which provides instruction on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use. In addition, Supervisors shall receive training on the physical, behavioral, and performance indicators of probable drug and alcohol misuse.
3. Code of Federal Regulations (CFR): The Regulations issued by the United States Department of Transportation, 49 CFR 40, and the Federal Transit Administration, 49 CFR 655, are available for employees to review in the Internal Affairs Bureau by appointment. These regulations are also available via the Internet at:
<http://www.dot.gov/ost/dapc/regulations.html>

V. POLICY

It is the Policy of the MTA to maintain a drug- and alcohol-free workplace. To this end, all sites at which MTA business is conducted, including MTA vehicles used for business purposes, are to be drug- and alcohol-free workplaces. Drug and/or alcohol testing may be performed to ensure compliance with this Policy and with applicable federal regulations. The circumstances when testing may occur are defined in Section VI of this Policy.

A. Early Intervention, Treatment and Rehabilitation Resources

The MTA recognizes that alcoholism and drug dependency are treatable illnesses and that the likelihood of successful rehabilitation is substantially increased by early detection and treatment. Therefore, Members are encouraged to voluntarily seek confidential assistance through the EAP by self-referral **before**

their job performance deteriorates or the illness affects the safe performance of their job and **before** being charged with a violation of this Policy or of federal or state law.

The MTA complies with all applicable laws concerning reasonable accommodation for treatment and provides the following resources to Members to encourage voluntary and early treatment:

1. EAP: A Member may seek the confidential services of the EAP regarding his or her use of controlled substances or alcohol.
2. Health Insurance Benefits: The MTA's group health insurance plans include coverage for alcohol and/or drug abuse treatment.
3. Substance Awareness Training: A training program in substance awareness for Members and Supervisors.
4. Leaves of Absence: Pursuant to the PBA collective bargaining agreement, the MTA's Family and Medical Leave Policy or other applicable policies, the Member may request and the MTA may approve a leave of absence for purposes of rehabilitation for drug or alcohol misuse. Nothing in this Policy requires the MTA to offer a Member a leave of absence in lieu of taking immediate administrative and/or disciplinary action, up to and including dismissal.

B. Performance Requirements

1. The MTA will hold any Member who engages in the illegal use of drugs or who suffers from an alcohol use disorder to the same qualification standards for employment or job performance and behavior (such as attendance) to which the MTA holds its other Members, even if unsatisfactory performance, behavior, or rule or Policy infractions are related to the Member's drug and/or alcohol use.
2. Past or present involvement in a rehabilitation program, the EAP, or with other treatment practitioners cannot serve as a defense nor mitigate the circumstances of alleged violations of MTA rules, policies or laws, including but not limited to rules applicable to the MTA Police Department.

C. Prohibited Conduct

1. All Members are prohibited from reporting to work if they are under the influence of drugs or alcohol.

2. All Members are prohibited from illegally manufacturing, distributing, selling, dispensing, possessing or using any controlled substances or illegal drug paraphernalia, on or off duty, on or off MTA property. Members may, however, possess controlled substances or illegal drug paraphernalia in the course of taking official police action consistent with Police Department procedures, including, but not limited to, performing undercover assignments or seizing evidence during an arrest. Members are prohibited from using any controlled substance at any time, whether on or off duty, unless medically authorized as described in paragraph 5 of this section.
3. Members are prohibited from reporting to work if they have consumed alcohol within four hours of their duty time. If a Member is on-call, the Member may not consume alcohol during the specified on-call hours. A Member must, however, advise his or her immediate Supervisor immediately upon being called to report to duty if the Member is unable to perform his or her job. The Member must take an alcohol test if he or she has acknowledged using alcohol but claims to be able to perform his or her job. Notwithstanding these provisions, the MTA, under its own authority, may take administrative or disciplinary action against a Member under these circumstances, up to and including dismissal.
4. All Members are prohibited from possessing or consuming alcohol in the workplace and from consuming alcohol during work hours, including meal and break periods, unless such use is required in the course of taking official police action consistent with Police Department procedures, including, but not limited to, performing undercover assignments or seizing evidence during an arrest. However, in no case may a Member's alcohol concentration equal .02 or greater while on duty.
5. Prescription or Over-the-Counter Drugs: Members may use prescription or over-the-counter drugs while performing safety-sensitive duties if (1) such use is brought to the attention of the MRO by the Member at least two hours before reporting to duty or as soon as is practicable and (2) if the drug is a prescription drug, the drug is prescribed or authorized by a medical practitioner who has determined that such use will not affect the Member's job performance. Prior to the Member submitting such a note, in order to work, the Member must certify that the drug will not affect

his or her job performance. The MRO or his or her designee will then determine whether use of the substance as prescribed is consistent with the safe performance of the Member's duties. The determination of the MRO or his or her designee is final and binding.

6. All Members are prohibited from refusing to cooperate or from intentionally interfering with the MTA's efforts to enforce this Policy or related federal regulations, including but not limited to refusing to submit to a drug and/or alcohol test conducted pursuant to this Policy or federal regulations, leaving the scene of an accident before post-accident drug and/or alcohol testing required by this Policy or federal regulations has been conducted, tampering with the integrity of a breath or urine sample in connection with such tests, or disclosing to an unauthorized person the identity of a Member selected for random testing or the location, time or date for such testing.

7. Refusal to Test

- a. The following conduct constitutes a refusal to take a drug test: (1) failure to appear for any test within a reasonable time after being directed to do so by the employer (except for pre-employment tests); (2) failure to remain at the testing site until the testing process is complete; (3) failure to provide a urine specimen; (4) failure to permit observation or monitoring of provision of a urine specimen when authorized by the federal regulations; (5) failure to provide a sufficient amount of urine when directed and it has been determined, through a medical evaluation, that there was no adequate medical explanation for the failure; (6) failure or declining to take an additional test as directed by the MTA or collector; (7) failure to undergo a medical examination, as directed by the MRO or DER, as part of the verification process or “shy bladder” procedures; (8) failure to cooperate with any part of the testing process; (9) for an observed collection, failure to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process; (10) possess or wear a prosthetic or other device that could be used to interfere with the collection process; (11) your admission to the collector or MRO that you adulterated or substituted the specimen; or (12) a verified adulterated or substituted test result reported by the MRO.

b. The following conduct constitutes a refusal to take an alcohol test: (1) failure to appear for any test within a reasonable time after being directed to do so; (2) failure to remain at the testing site until the testing process is complete; (3) failure to provide an adequate amount of breath for a test; (4) failure to provide a sufficient breath specimen and a physician has determined, through a medical evaluation, that there was no adequate medical explanation for the failure; (5) failure to undergo a medical examination as directed by the MTA as part of the “insufficient breath procedures” in the federal regulations; (6) failure to sign the certification at Step 2 of the DOT Alcohol Testing Form; (7) failure to cooperate with any part of the testing process; or (8) a verified adulterated or substituted test result reported by the MRO.

D. Consequences of Engaging in Prohibited Conduct

1. A Member suspected of violating any of the prohibitions set forth in this Policy may be subject to (a) drug and/or alcohol testing as defined in this Policy, and/or (b) removal from his or her safety-sensitive position, and/or (c) administrative and/or disciplinary action up to and including dismissal, under the authority of the MTA.
2. A Member will be considered to have failed an alcohol test if his or her Breath Alcohol Concentration is .04 or higher. A Member will be removed from his or her position if his or her Blood Alcohol Concentration is .02 or higher. A Member will be considered to have failed a drug test if he or she has a verified positive urine test result.
3. A Member who has a verified positive drug test result or a confirmed alcohol test result of .04 Breath Alcohol Content (BAC) or greater, or refuses to submit to a required test shall be subject to the following consequences:
 - a. The Member shall immediately cease performing safety-sensitive functions per 49 CFR Part 655.
 - b. The Member shall be disciplined by the MTA, acting under its own authority, in accordance with the Memorandum of Understanding between the MTA and the MTA Police Benevolent Association (PBA) dated November 12, 2002 and attached to this policy as Exhibit B, and any amendments thereto.

- c. The MTA shall refer the Member to a SAP regardless of whether or not his or her employment is terminated in accordance with 49 CFR §655.62.
 - d. A Member allowed by the MTA to return to safety-sensitive functions shall be required to pass a drug and/or alcohol test before returning to his or her position. In addition, the Member will be subject to unannounced follow-up drug and/or alcohol testing as directed by the SAP. The number and duration of follow-up testing must be no fewer or shorter than the minimum requirements set forth in the regulations issued by the FTA.
- 4. A Member with a confirmed positive result of between .02 BAC and less than a .04 BAC shall be subject to the following consequences:
 - a. The Member shall immediately cease performing safety-sensitive functions per 49 CFR Part 655.
 - b. The Member shall be disciplined by the MTA, acting under its own authority, in accordance with the Memorandum of Understanding between the MTA and the MTA Police Benevolent Association (PBA) dated November 12, 2002 and attached to this Policy as Appendix A, and any amendments thereto.
 - c. The Member may return to safety-sensitive functions at the start of the employee's next regularly scheduled duty period, but not less than eight hours after the confirmed test, unless the employee's alcohol concentration measures less than .02 BAC on a retest. Discipline assessed by the MTA, under its own authority, may delay or negate the return of a Member to safety-sensitive duties.
- 5. In accordance with the Drug-Free Workplace Act of 1988, a Member convicted of violating a criminal drug statute in the workplace or anywhere else must report the conviction to the Chief of Police or his or her designee within five days of the conviction. Members convicted of violating a criminal drug

statute or who fail to report such conviction may be subject to disciplinary and/or administrative action, up to and including dismissal.

6. Members may be subject to administrative and/or disciplinary action, up to and including dismissal, should the MTA receive notice of off-duty misconduct relating to alcohol and/or drug abuse (e.g., a drug or alcohol-related conviction) or the Member's illegal manufacturing, distribution, dispensing or possession of controlled substances, under the authority of the MTA.

E. Drug and Alcohol Testing

Subject to federal regulations, nothing in this Policy requires the MTA to conduct drug and/or alcohol testing before taking administrative and/or disciplinary action, up to and including dismissal, for a violation of this Policy, under MTA's own authority.

All Members are subject to drug and/or alcohol testing as required by this Policy and/or applicable federal rules.

In 49 C.F.R. Part 655, the FTA requires the MTA to conduct drug and/or alcohol testing of Members in the following situations: (1) Pre-employment, (2) where there is Reasonable Suspicion, (3) Randomly, (4) Post-accident, (5) Return to Duty, and (6) Follow-up.

VI. CIRCUMSTANCES WHEN TESTING WILL BE PERFORMED

A. Pre-Employment

1. The MTA will schedule a pre-employment drug test for those applicants or transferees who have received conditional offers to perform service for MTA as a Member.
2. Pursuant to 49 C.F.R. Part 655, no Member may perform safety-sensitive duties prior to passing a drug test administered by the MTA.
3. If a Member has not performed a safety-sensitive function for 90 consecutive days regardless of the reason, and the Member has not been in the MTA's random testing pool during that time, the Member may not perform safety-sensitive functions until he or she passes a drug test administered by the MTA.

4. A candidate must produce a negative drug test result prior to first performing safety-sensitive functions. If the test is canceled, the candidate must retake and pass the test before performing safety-sensitive work.
5. An employee or candidate who previously failed or refused a pre-employment drug test under this Policy must provide the MTA proof of having successfully completed a referral, evaluation and treatment plan as described herein.

B. Reasonable Suspicion

1. All Members are subject to drug and/or alcohol testing where Reasonable Suspicion exists.
2. For all Members, the decision to conduct the test must be based on specific, contemporaneous, articulable observations of the appearance, behavior, speech, or body odors of the Member. Testing may only occur when a Supervisor who is trained in detecting the signs and symptoms of drug use and alcohol misuse makes the required observations, which may include the following criteria:
 - a. Staggered gait, difficulty walking
 - b. Slurred speech
 - c. Drowsiness/sleepiness
 - d. Odor of an intoxicant
 - e. Disorientation (time/place/person)
 - f. Rapid mood swings with no apparent reason
 - g. Poor coordination or body control
 - h. Bizarre behavior
 - i. Direct observation of use of an intoxicant or controlled substance.
3. At least one Supervisor who has completed Substance Awareness Training must make the required observations before sending a Member for drug and/or alcohol testing.
4. When Reasonable Suspicion exists, drug and/or alcohol testing is mandatory pursuant to 49 C.F.R. Part 655.
5. **Alcohol testing is authorized under this Policy, only if the observations required above are made and the testing is conducted during, just preceding, or just after the period of the workday that the Member is required to be in compliance with this Policy.**

6. The MTA must make diligent efforts to conduct an alcohol and/or drug test within two hours of the initial observation of the Member. If testing is not conducted within two hours, the Supervisor must provide the Chief of Police or his designee with documentation as to the reason why the test was not promptly conducted. Absolutely no alcohol testing may be performed after the expiration of eight hours from the time of observation. Drug testing, however, may be conducted. If over eight hours has passed since the time of observation and no alcohol testing has been conducted, the Supervisor must provide the Chief of Police with documentation explaining why testing was not performed.

C. Random Testing

1. Random testing of Members is performed by the MTA pursuant to applicable FTA regulations set forth in 49 C.F.R. Part 655. In accordance with those regulations, MTA will:
 - a. Select employees for random testing at the annual rate established by the FTA as published from time-to-time in the Federal Register. Such selection shall be made by a scientifically-valid method, such as a random number table or a computer-based random number generator that is matched with the Members' Social Security Numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each Member shall have an equal chance of being tested each time selections are made.
 - b. Ensure that random tests are unannounced and that the times and dates for administering random tests are reasonably spread throughout the day and calendar year.
 - c. Require that each Member who is notified of selection for random testing proceeds to the test site immediately. A Member may only be tested while on duty; just before the employee is to go on duty; or just after the employee has gone off duty.

D. Post-Accident Testing

1. Accident: An occurrence associated with the operation of an ancillary service vehicle, which may include an MTA Police vehicle, if as a result:

- a. An individual dies; or
 - b. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
 - c. With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
 - d. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.
2. Fatal Accidents: As soon as practicable following an accident involving the loss of human life, MTA will conduct drug and alcohol tests on the surviving Member operating the vehicle at the time of the accident. MTA will also conduct drug and alcohol testing on any other Member whose performance could have contributed to the accident, as determined by the MTA using the best information available at the time of the decision.
 3. Non-fatal Accidents: As soon as practicable following an accident not involving the loss of human life in which a vehicle is involved, the MTA will conduct drug and alcohol testing on each Member operating the vehicle at the time of the accident unless the MTA determines, using the best information available at the time of the decision, that the Member's performance can be completely discounted as a contributing factor to the accident. MTA will also conduct drug and alcohol testing on any other Member whose performance could have contributed to the accident, as determined by the MTA using the best information available at the time of the decision.
 4. The MTA must make diligent efforts to conduct an alcohol and/or drug test within two hours of the accident. If testing is not conducted within two hours, the Member's Supervisor must provide the Chief of Police or his designee with documentation as to the reason why the test was not promptly conducted. Absolutely no alcohol testing may be performed after the expiration of eight hours from the time of

observation. Drug testing, however, may be conducted within 32 hours of the accident. If over eight hours have passed since the time of the accident and no alcohol testing has been conducted, or if 32 hours have passed since the time of the accident and no drug testing has been conducted, the Supervisor must provide the Chief of Police with documentation explaining why testing was not performed.

5. A Member who is subject to post-accident testing but who fails to remain readily available for such testing, including notifying his or her Supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such testing, may be deemed by MTA to have refused to submit to testing.
6. The decision not to administer a post-accident drug or alcohol test must be based on the MTA's determination, using the best available information at the time of the determination that the Member's performance could not have contributed to the accident. Such a decision must be documented in detail by written memorandum to the Chief of Police or his or her designee, including the decision-making process used to reach the decision not to test.
7. Nothing in this section should be construed to delay the necessary medical attention for the injured following an accident or to prohibit a Member from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
8. The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by federal, state or local officials having independent authority for the test, shall be considered to meet the requirements of this section if such test conforms to the applicable federal, state, or local testing requirements, and the test results are available to MTA. MTA will only use such test results where it is unable to perform a post-accident test within the required periods set forth in paragraph 3 of this section.

E. Return to Duty and Follow-up Testing

1. Each Member who has engaged in conduct in violation of the FTA regulations and/or this Policy must pass a drug and/or alcohol test in order to return to his or her position.

2. In addition, the Member is subject to unannounced follow-up drug and/or alcohol testing as directed by the SAP. The number and duration of follow-up testing must be no fewer or shorter than the minimum requirements set forth in the regulations issued by the FTA.

VII. TEST PROCEDURES AND RETESTS

The MTA and any vendors that have been or may be hired by the MTA to perform testing will follow the procedures established by the United States Department of Transportation ("DOT") for all drug and alcohol testing conducted under this Policy. These procedures are set forth in 49 C.F.R. Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

If a drug test is reported by the MRO as both negative and dilute, the MTA shall require the employee to take another drug test immediately. A second drug test result of negative and dilute will not require a third test; the result of the second drug test will become the test of record.

VIII. CONFIDENTIALITY

- A. No Member may disclose to any individual any drug or alcohol use or testing information concerning any other Member, including but not limited to random testing selection information, unless such disclosure is necessary for compliance with this Policy or federal law or unless the Member whose records are at issue executes a release specifically authorizing the disclosure of such information.**
- B. All records maintained in the course of carrying out the procedures described in this Policy and under federal drug and alcohol-testing laws must be maintained in a separate file, under lock and key.
- C. If any Member discloses the information or records described in paragraphs A and B to any other individual for any reason, that Member may be subject to administrative or disciplinary action, up to and including dismissal.

EXHIBIT A

SAFETY-SENSITIVE JOB TITLES

Police Officer
Detective
Sergeant
Detective Sergeant
Lieutenant
Captain
Deputy Inspector
Inspector
Assistant Deputy Chief
Deputy Chief
Chief of Department

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MTA Long Island Rail Road

Jury Duty Policy for Management Employees**LEAVE-004**

I. PURPOSE

Occasionally, MTA Long Island Rail Road (LIRR) employees are required to be absent from work in order to perform jury duty service. This Corporate Policy and Procedure (Policy) establishes a uniform method to allow for a continuation of salary with no charge to accrued leave while serving on jury duty.

II. SCOPE

This Policy applies to all management employees and those represented employees (collectively called "Employees") who receive management benefits governed by their respective Collective Bargaining Agreements.

III. PROCEDURE

While serving on jury duty, Employees will continue to receive their salary. Employees will not be required to remit to the LIRR any fees and/or expenses earned in connection with jury participation.

The Employee has the responsibility to show his/her immediate supervisor the official summons to serve on a jury at least three (3) days before the Employee is scheduled to serve. After the Employee has completed jury duty service, the Employee must furnish his/her supervisor with evidence of having served (Certificate of Service). The Certificate of Service should be maintained in the department file. Employees on jury duty are expected to report for work any time they are temporarily or finally excused during the scheduled period of jury duty service.

When it is necessary for an Employee to request postponement of jury duty service due to unusual circumstances at work, the Employee's supervisor should furnish the proper civil authorities with the necessary letter or certification to support the requested postponement.

IV. FORMS & ATTACHMENTS

None

V. REVISION TRACKING

October 1994

July 2002

March 2008

May 2011

April 2015 - Reviewed per BPM-001 Issuance of Corporate Policies and Procedures.

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

I. PURPOSE

The purpose of this Corporate Policy and Procedure (Policy) is to outline the administration of sick leave allowance for employees of the MTA Long Island Rail Road (LIRR). As set forth in Section IV., of this Policy, sick leave is to be used only for illnesses of or the provision of medically related care to the employee or the employee's spouse, dependent child, parents or domestic partner.

II. SCOPE

This Policy applies to all non-represented management employees and those represented employees who receive management benefits governed by their respective Collective Bargaining Agreements (collectively called Employees).

III. ESSENTIAL FUNCTIONS

The essential functions related to this Policy are as follows:

A. Senior Director-Human Resources

1. Administers this Policy

B. Department Heads

2. Ensure compliance with this Policy.

IV. PROCEDURE**A. PAID SICK DAYS****1. Eligibility**

- a. Employees in active service will be allotted twelve (12) paid sick days per year, credited to the Employee on each January 1.
- b. In their first calendar year of employment, Employees will be allotted one (1) sick day per calendar month for the balance of the year, credited to the Employee on his/her date of hire.
- c. Represented Employees promoted to a position covered by this Policy will have their represented sick leave bank transferred into their new status.
- d. An Employee losing time due to an on-the- job injury will not have the time deducted from his/her sick leave bank.
- e. Employees working a reduced work schedule (e.g., in part-time service) will be credited with a sick leave allotment prorated proportionately to the allotment received by full-time Employees in the same title.

2. Usage

- a. Sick days may only be used for illnesses of or the provision of medically related care to the Employee, the Employee's spouse, dependent child, parents, or domestic partner.

For the purposes of this Policy, "dependent child" is defined as a biological or adopted child, foster child, stepchild, legal ward, or a child of an Employee standing in loco parentis (i.e., in place of a parent), who is: under the age of 19; or older than 19 but incapable of self-care because of a mental or physical disability; or older than 19 but under 25 and is a full-time student at an accredited secondary or preparatory school, college or other educational institution.

- b. In cases where an Employee uses sick days of a duration exceeding five (5) consecutive workdays, the Employee is expected to provide medical documentation to the appropriate supervisor that includes the period of time the Employee had been unable to report to work. If such certification is not provided, the Employee must submit a statement of explanation pertaining to the unavailability of the document. The responsible department must ensure proper controls are in place for adhering to this process.
- c. Department Heads may authorize an Employee's use of sick days for up to thirty (30) consecutive calendar days.
- d. The Senior Director – Human Resources, must approve any use of sick days greater than thirty (30) consecutive calendar days. For all such sick leave absences, a Family and Medical Leave Act Application Form (HR-BEN-028 (Available on the BSC Portal) must be submitted by the Employee to his/her Supervisor. (See LIRR Corporate Policy and Procedure LEAVE-003 - Family and Medical Leave.) If the Employee is eligible for leave under the Family and Medical Leave Act, a Certification of Health Care Provider Forms (HR-BEN-069/070 – Available on the BSC Portal) must be submitted by the Employee to either the Director – Employee Services, Human Resources Department or to the Physician-in-Charge, LIRR Medical Department.
- e. If an Employee's absence has been designated as qualifying under the Family and Medical Leave Act, any leave used during such absence (i.e. sick leave, vacation leave and personal days) shall run concurrently with Family and Medical Leave.
- f. If an Employee does not qualify for Family and Medical Leave, appropriate medical documentation must be submitted to the Senior Director-Human Resources for approval of the Employee's continued use of additional sick days.

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

3. Balances

- a. Unused sick days may be carried over from one calendar year to succeeding years with unlimited accumulation.
- b. Vacation, personal and sick leave accrues and medical and other benefits continue while an Employee is using his/her sick days.
- c. Employees who leave positions covered by this Policy and move into positions that are not covered by this Policy, will maintain their sick leave balances upon transfer, and will be governed by the sick leave agreement that governs the new position.
- d. Employees covered by this Policy will maintain accumulated sick leave balances if they transfer between MTA Constituent Agencies.
- e. Sick leave banks for Employees who retire from an MTA Constituent Agency and who are subsequently hired at the LIRR will be calculated as that of a newly hired Employee. Sick leave balances earned at the Constituent Agency from which the Employee retired, will not be accepted by the LIRR.

B. SICK LEAVE ABUSE

Nothing stated in this Policy will preclude the LIRR from disciplining Employees who abuse sick leave privileges. Repeated and/or excessive periods of absence will be subject to review and can lead to disciplinary action, up to and including termination.

Employees are prohibited from working outside employment while on any leave under this Policy.

The LIRR reserves the right to recover payments from Employees that were made contrary to the terms of this Policy including, but not limited to, any overpayments or payments made as a result of an Employee's unauthorized use of sick leave.

C. SHORT-TERM DISABILITY

1. Employees in active service are entitled to paid short-term disability benefits. The LIRR provides short-term disability benefits at 100% pay for up to twenty-six (26) consecutive weeks or one hundred thirty (130) working days from the initial date of absence for an Employee's prolonged, major or catastrophic illness.
2. Prior to short-term disability benefits taking effect, all paid sick days, and all but ten (10) working days of the aggregate of the Employee's accumulated vacation days and personal days, must be exhausted.
3. For any single occurrence of prolonged, major or catastrophic illness, which has been supported by approved medical documentation, Employees will be considered for short-term disability benefits for up to a maximum of 26 consecutive weeks or 130 working days, from the initial date of absence as stipulated in the LIRR Long Term Disability Insurance Program.

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

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4. If an Employee has exhausted his/her paid sick days and all but 10 days of the aggregate of the Employee's available vacation days and personal days, and is unable to work because of his/her own personal prolonged, major or catastrophic illness, the Department Head may submit a request to the Senior Director – Human Resources, recommending that the Employee be granted short term disability benefits. The request should include the pertinent facts of the case, provide applicable medical documentation and indicate the amount of excess time being requested. As indicated in IV.C.3 above, however, under no circumstances may an Employee receive paid short term disability benefits for more than 26 consecutive weeks or 130 working days from the initial date of absence for the same illness or injury.
 5. For any absence that exceeds 30 consecutive calendar days, the Employee must submit a Family and Medical Leave Act Application – HR-BEN-028 to his/her supervisor. Any FMLA leave to which an Employee may be entitled runs concurrently with short-term disability. In other words, an Employee cannot take his/her full short term disability benefits, and then take 12 weeks off under the FMLA; any time spent on short-term disability counts as part of an Employee's FMLA leave.
 6. Vacation, sick and personal leave accrues while an Employee is on short-term disability. However, all such accrued leave will be charged during the Employee's continued absence.
 7. The LIRR will continue payment (less required Employee contributions) of health insurance, life insurance, and long-term disability premiums for Employees during the period of short-term disability. Employees must continue to contribute their portion to continue other programs or benefits.
 8. Employees are limited to a maximum of fifty-two (52) weeks of short-term disability benefits over the term of their employment at the LIRR or over a combination of terms of employment at MTA Constituent Agencies.
 9. Employees of an MTA Constituent Agency who are working at the LIRR will follow policies and practices of the LIRR relative to short-term disability.
 10. An Employee who is receiving short-term disability benefits and who is also on FMLA leave is entitled to be restored to his/her prior position or to an equivalent position upon return to work. Where an Employee is not on FMLA leave, the LIRR will attempt to return the Employee who is returning from short-term disability to the same or similar job that the Employee held prior to the leave. Under some circumstances, however, permanent replacement during a leave may be required. Therefore, unless an Employee is entitled to return to the same or an equivalent position under the FMLA, a job cannot be guaranteed when the Employee is ready to return to work from short-term disability.

D. LONG-TERM DISABILITY

1. If an absence extends beyond 26 consecutive weeks or 130 working days for an Employee's own prolonged, major or catastrophic illness or on-the job injury, the Employee may apply for long-term disability benefits under the LIRR Long Term Disability Insurance Program.
2. No sick, vacation or personal leave accrues during long-term disability.
3. Employees who are on long-term disability will continue to be covered by the Company's health and welfare benefits beyond age 65 if he/she is vested in the Company's pension plan with ten or more years of service. Employees who do not have sufficient years of service to be vested in the Company's pension plan are covered up to age 65. Full life insurance coverage will continue for the duration of long-term disability, up to age 65 or to the date of retirement, whichever occurs sooner. The same applies to supplemental life insurance if the Employee had supplemental life insurance before receiving long-term disability.
4. Employees anticipating an absence for more than 26 consecutive weeks or 130 working days due to injury or illness should apply for long-term disability as soon as possible.
5. The LIRR will attempt to return an Employee returning from long-term disability to his/her former position or to some similar or other position. Under some circumstances, permanent replacement during a leave may be required. Therefore, a job cannot be guaranteed when the Employee is ready to return from long-term disability.
6. An Employee who fails to return to work upon the termination of his/her long-term disability benefits will be considered to have voluntarily resigned from employment at the LIRR.
7. Unpaid medical leave, up to a maximum of six (6) months, may be granted to an Employee who has used all available paid sick days (up to a maximum 130 days), but who has either failed to apply for long-term disability benefits or has been denied long-term disability benefits by the LIRR Long-Term Disability Program. The Department Head may approve unpaid medical leave for up to thirty (30) consecutive calendar days. The Senior Director-Human Resources must approve any leave greater than thirty (30) consecutive calendar days.
 - a. Any unpaid medical leave must be supported by acceptable medical documentation.
 - b. The LIRR will attempt to return an Employee returning from this unpaid medical leave to his/her former position or to some similar or other position. Under some circumstances, permanent replacement during a leave may be required. Therefore, a job cannot be guaranteed when the Employee is ready to return from this unpaid medical leave.

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

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- c. No sick, personal or vacation leave will accrue while on an unpaid medical leave.
 - d. Medical, dental and vision benefits will continue for six (6) months, after which the Employee may purchase health, dental and vision benefits under COBRA, as provided by Federal law.
 - e. An Employee who fails to return to work at the end of the unpaid medical leave's approved duration will be considered to have voluntarily resigned from employment at the LIRR.

E. CASH PAYMENT FOR UNUSED SICK DAYS

1. Employees, who have ten (10) years of service or more, may receive a cash payment for unused sick days upon their retirement, resignation or termination in good standing. An Employee who is first appointed to a position covered by this Policy after May 3, 2006, or who is returning to a position covered by this Policy after May 3, 2006, must be employed in one or more position(s) covered by this Policy for a minimum of two (2) consecutive years immediately prior to separation and have ten (10) years of service or more to receive the cash payment. Such payment will consist of one (1) paid day for every two (2) days of accumulated sick leave, up to a total of two hundred forty (240) days of accumulated sick leave. Therefore, an Employee may receive payment for up to one hundred twenty (120) days. Fractions of a full day will be paid where applicable. The daily rate applied to this calculation will be based on the Employee's rate of pay as of the date of separation.

If an Employee does not have the required two (2) years of employment in a position(s) covered by this Policy as described above, but had served in a position covered by an LIRR Collective Bargaining Agreement (CBA) before his/her appointment to a position covered by this Policy, the Employee may be eligible to receive a cash payment for one-half of his/her unused sick leave only if the Employee would have been eligible for such payment under the aforementioned CBA. Such payment, however, may not exceed one hundred twenty (120) days. The daily rate applied to this calculation will be based on the rate of pay the Employee had been receiving immediately prior to his/her appointment to the position covered by this Policy.

2. As set forth in Section IV of this Policy, sick leave may only be used for illnesses of or the provision of medically related care to the Employee or the Employee's spouse, dependent child, parents, or domestic partner. Sick leave may not be used for any other purpose, including as a mechanism for being paid for excess leave for which an Employee would not be entitled to be paid upon separation of employment. As indicated in Section IV. B of this Policy, any such unauthorized use of sick leave will be considered an abuse of this Policy and may lead to disciplinary action, up to and including termination. In addition, the LIRR reserves

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

the right to recover payments from Employees that were made as a result of unauthorized use of sick leave.

3. Employees are permitted to retain their accumulated sick leave balances upon transfer between MTA Constituent Agencies. They may not receive a cash payment for unused sick leave at the time of transfer. Upon retirement, however, Employees may be paid for such transferred accumulated sick leave balances in accordance with the provisions of this Policy.
4. Employees who separate employment from the LIRR in other than good standing, as determined by the Senior Director – Human Resources in his/her sole discretion, will not be eligible to receive this cash benefit.
5. Employees covered by this Policy are eligible for this benefit at any time after the date marking ten (10) years of aggregate active service with MTA Constituent Agencies. This ten (10) year period includes the aggregation of all periods of active service at any MTA Constituent Agency, providing there are no gaps in said period of active service exceeding twelve (12) months in duration for reasons other than illness, disability or approved leave of absence.
6. For the purposes of this Policy, the unused sick leave balances of an eligible Employee who dies while in the service of the LIRR will be treated as if the Employee resigned from service as of the date of death (consistent with the retirement practices of the LIRR). The cash value of these balances will be paid to the estate of the deceased Employee.
7. If, within five (5) years prior to separation from employment in good standing, an Employee's entire sick leave bank had been depleted (as a result of the Employee's own prolonged, major or catastrophic illness which has been documented and approved by the Medical Department), the Employee shall be paid at separation or retirement an amount equal to one twelfth (1/12) of his/her annual salary for each full ten (10) years of aggregate active service. Employees with greater than ten (10) years of service, but with less than twenty (20), thirty (30) or forty (40) years, as the case may be, shall be paid for that additional period on a pro-rata basis of three (3) days of pay for each full year of service not to exceed 20 days.

For example, an Employee in this situation with nine (9) years of service would receive no payment; an Employee with ten (10) years of service would receive a payment of one-twelfth (1/12) of the annual salary; an Employee with fifteen (15) years of service would receive a payment of one-twelfth (1/12) of the annual salary, plus a payment equal to fifteen (15) days of salary (three (3) days per year times five (5) years); and an Employee with twenty (20) years of service would receive a payment of one-sixth (1/6) of the annual salary.

The amount of this calculation is not in addition to sick leave balances the Employee may have accumulated after the occurrence of the prolonged, major or catastrophic illness. The Employee may receive either the amount derived by

SICK LEAVE POLICY FOR MANAGEMENT EMPLOYEES**LEAVE-008**

this paragraph, or the amount as calculated in accordance with Paragraph 1 above, whichever is greater.

The rate applied to this calculation will be based upon the Employee's rate of pay as of the date of separation.

8. Unused sick days may be carried over from one calendar year to succeeding years with unlimited accumulation; however, payment for unused accumulated sick leave will be in accordance with either Paragraphs 1 or 7 above, as applicable. Employees, who leave positions covered by this Policy and move into positions that are not covered by this Policy, will carry their sick leave balances upon transfer and will be governed by the sick leave cash-out policy of the new position. Likewise, Employees who enter into positions covered by this Policy from positions that are not covered by this Policy, will carry their sick leave balances upon transfer, and will be governed by the sick leave cash-out procedure set forth in this Policy.
9. Employees who are granted severance payments or early retirement incentives shall receive any payments to which they are entitled under this Policy in addition to any payment received in connection with severance or early retirement programs.

V. FORMS AND ATTACHMENTS

None

VI. REVISION TRACKING

April 1998

January 2002

August 2003

September 2007

June 2011

April 2015 - Updated per CP&P BPM-001: Issuance of Corporate Policies and Procedures.

Updated references to Family Medical Leave Forms - Attachments A and B which are now available on the BSC Portal.

I. PURPOSE

This Corporate Policy and Procedure (Policy) establishes Personal Leave Day allocation and usage for MTA Long Island Rail Road (LIRR) management employees.

II. SCOPE

This Policy applies to all management employees and represented employees who receive management benefits as stipulated in their respective collective bargaining agreements (collectively called “Employees”).

III. ESSENTIAL FUNCTIONS**A. Senior Director-Human Resources**

Administers this Policy.

B. Department Heads

Ensure compliance with this Policy.

IV. PROCEDURE**A. General**

1. A “Personal Leave Day” is considered a day off, with pay, to be used for any personal reason.
2. Personal Leave Days may be taken in conjunction with vacation days or holidays.
3. Personal Leave Day requests should be submitted to the Employee’s supervisor as far in advance as possible. Such requests should not be unreasonably denied.
4. Unused Personal Leave Days do not accumulate, cannot be carried over into succeeding years and will be forfeited if not used by the end of that calendar year.
5. All Personal Leave Day usage must be recorded as such in the timekeeping/payroll system.

B. Allocation

1. Employees are not entitled to any Personal Leave Days in their first calendar year of employment.
2. Employees are entitled to one (1) Personal Leave Day in their second calendar year of employment.
3. Employees are entitled to two (2) Personal Leave Days in their third and fourth calendar years of employment.
4. Employees are entitled to three (3) Personal Leave Days in their fifth and in all subsequent calendar years of employment.
5. Employees promoted from represented positions not covered by this Policy will have their remaining Personal Leave Day balance carried into the calendar year in which the promotion is effective. At the end of the calendar year, Employees will not be compensated for any unused Personal Leave Days earned while in the represented position. (See IV.A.4.) In the calendar years following the promotion, Personal Leave Day allowance will be calculated based upon the schedule outlined above.
6. Employees who transfer to the LIRR from another MTA Agency will have all previous employment at the MTA Agency credited in calculating calendar years of service. Personal Leave Day entitlement will commence in the second calendar year of employment at the LIRR.

V. FORMS & ATTACHMENTS

None

VI. REVISION TRACKING

April 1998

March 2008

May 2011

April 2015 - Updated per CP&P BPM-001: Issuance of Corporate Policies and Procedures.

MTA Metro-North Railroad

Corporate Policy and Operating Procedure

Title: **ATTENDANCE – NON-AGREEMENT EMPLOYEES**

Number: **21-021A**

Effective Date: June 9, 1988

Page 1 of 4

Revised Date: December 16, 2015

A. POLICY

1. This Corporate Policy and Operating Procedure (Policy) applies to Metro-North Railroad (“MNR” or “Metro-North”) non-agreement employees and those Metro-North Railroad employees holding positions listed in Appendix No. 13 to the TCU collective bargaining agreement (collectively, “employees” or “MNR employees” for purposes of this Policy). It is the responsibility of each employee to report for duty at the time and days scheduled, at the designated location and to remain on duty for the full workday. This is the most important obligation an individual assumes as a condition of employment with the railroad.

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.

While perfect attendance is a goal, an employee should not report for duty if he or she is suffering from an impairment that would pose a threat to the safety of railroad passengers, fellow employees or the employee’s own safety. If an employee reporting to work believes a medical or physical condition or injury renders the employee unfit for duty on that work day, the employee has a duty to advise his or her supervisor. MNR policy does not permit employees who do not satisfy medical standards for fitness for duty to report to work or remain on duty for the workday.

2. Metro-North employees are required to work eight hours per work day and 40 hours per pay period, not including lunch or other breaks, provided, however, that designated employees in the Office of System Safety (“Designated Safety Employees”) have been authorized to have a 12-hour-per-day work schedule. Designated Safety Employees are required to work 120 hours per three-week period, equating to 40 hours per pay period.

All employees are provided with adequate amounts of leave. MNR Corporate Policies and Operating Procedures and/or provisions in Collective Bargaining Agreements, as applicable (“Agreements”) describe exceptions to an employee’s daily obligation to report for duty (e.g., holidays, vacation and personal leave, jury duty and similar excepted absences). The various types of leave allowances and limitations, administrative steps, and documents required for these types of leave are detailed in MNR and Metropolitan Transportation Authority (“MTA”) procedures and/or provisions in the various Agreements:

- a. 21-003: Holidays
 - b. 21-004: Vacation & Personal Leave
 - c. 21-005: Sick & Disability Leave
 - d. 21-006: Administrative Leave (including, among other leaves, Jury Duty)
 - e. 21-009A: MTA All-Agency Policy 11-019: Bereavement Leave
 - f. 21-010: Military Leave
 - g. 21-022: Family & Medical Leave
3. Employees are permitted to use accrued sick leave for personal illness or injury, or to care for ill or injured dependent family members. For purposes of this Policy, dependent family members are the employee’s spouse, domestic partner, dependent child or parents. A dependent child is defined as the biological or adopted child, step-child, foster child or domestic partner’s child, who is unmarried, and (1) under the age of 19; (2) older than 19 but under the age of 25 and a full-time student at an accredited secondary or preparatory school or college, or (3) over the age of 19 and incapable of



Corporate Policy and Operating Procedure

Title: **ATTENDANCE – NON-AGREEMENT EMPLOYEES**

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self-care due to a mental or physical disability.

Employees who attempt to use sick leave for any other reason or who use sick leave in violation of this Policy will be subject to disciplinary action up to and including dismissal. Employees may not use sick leave to engage in Outside Employment or Activities as those terms are defined by MNR's policy on Dual Employment and Outside Activities, 21-029. To the extent employees use sick leave for FMLA-qualifying reasons, and are on an authorized FMLA leave, such leave shall count against both sick leave and any FMLA entitlement.

4. Corporate Policies and Procedures and Agreements, if applicable, 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.

Employees whose use of sick leave days exceeds reasonable levels will be considered as having unsatisfactory attendance. Unsatisfactory attendance may include 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;
- d. Frequent lateness to work or early departures; or
- e. Three occurrences of absences within any 30 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.

Authorized absences pursuant to Operating Policies 21-003: Holidays; 21-004: Vacation & Personal Leave; 21-006: Administrative Leave (including, among other leaves, Jury Duty); 21-009A: Bereavement Leave (and MTA All-Agency Policy 11-019); and 21-010: Military Leave will not be considered "occurrences" under this Policy.

Absences attributable to an authorized FMLA leave or to any authorized "reasonable accommodation" pursuant to federal or state disability law also may not be used to assess unsatisfactory attendance under this Policy. In addition, an absence arising from a workplace injury for which satisfactory medical documentation has been submitted establishing that the absence resulted from the employee following orders or a treatment plan of his/her treating physician shall not be included in assessing unsatisfactory attendance under this Policy.

5. Satisfactory or unsatisfactory attendance of an employee may be considered in evaluating employee job performance, as well as applications for job promotions or transfers. Consistent with Section 4 above, absences authorized pursuant to Operating Procedures 21-003: Holidays; 21-004: Vacation & Personal Leave; 21-006: Administrative Leave (including, among other leaves, Jury Duty); 21-009A: Bereavement Leave (and MTA All-Agency Policy 11-019); and 21-010: Military Leave will not be considered "occurrences" of absence under this Policy, nor shall absences attributable to (i) authorized FMLA leave; (ii) any authorized "reasonable accommodation;" or (iii) arising from a workplace injury for which satisfactory medical documentation has been submitted establishing that the absence resulted from the employee following orders or a treatment plan of his/her treating physician.
6. On occasion, employees may request to leave early or come in late to attend to personal business.



Corporate Policy and Operating Procedure

Title: **ATTENDANCE – NON-AGREEMENT EMPLOYEES**

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An employee is required to charge his or her leave balances for such time away from work, unless a request has been granted by his or her supervisor in advance to permit the employee to make up the time by working additional hours before the end of the pay period. Supervisors have the discretion to grant such requests on a case-by-case basis. No such request shall be granted unless the following conditions are satisfied:

- a. The supervisor has prior knowledge of the request and has given his or her approval;
 - b. The supervisor has determined that the accommodation will not have an adverse impact upon the productivity of the department and will not unduly burden other employees;
 - c. The employee does not have a history of unsatisfactory attendance as described in Section 4 above; and
 - d. The employee agrees to make up the time by working additional hours before the end of the pay period such that the employee shall have worked the required 40 hours for that pay period. The employee's supervisor must have concurred with the proposal for how the employee will make up the time. Employees may not roll over time and satisfy the obligation to make up time in a different pay period.
7. Supervisors are permitted to allow employees to work flexible hours provided that the modified schedule is consistent with the eight hour work day/40 hour work week requirement in Section 2 above and provided that the following conditions are satisfied:
- a. The employee has submitted a written request to his or her supervisor, specifying the flexible hours the employee is seeking;
 - b. The employee does not have a history of unsatisfactory attendance as described in Section 4 above;
 - c. The supervisor has, in his or her sole discretion, determined that the accommodation will not have an adverse impact upon the productivity of the department and will not unduly burden other employees or otherwise have an adverse impact upon the operations of MNR as a whole;
 - d. The supervisor has approved the employee's request in writing; and
 - e. Upon receiving the supervisor's written approval, the employee has obtained the written approval of his or her Department Head.

B. STEPS

1. The immediate supervisor and/or the department designee will monitor attendance and maintain 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.
2. Employees unable to report to work as assigned, or who must leave before the end of the workday, are required to follow established departmental procedures for notifying the appropriate supervisors.
3. Documentation submitted by employees to support absences due to illness or injury or for other reasons must comply with the procedures identified in Section A. 2. above. In addition, employees using sick leave as a "reasonable accommodation" must obtain appropriate documentation from a qualified health care provider and be prepared to submit it upon request to the designated administrator in his/her department. The department administrator should forward all such documentation pertaining to illness or injury to the Occupational Health Services Department for review.
4. Managers or supervisors should seek guidance from the Human Resources Department when initiating disciplinary actions for unsatisfactory attendance.



Corporate Policy and Operating Procedure

Title: **ATTENDANCE – NON-AGREEMENT EMPLOYEES**

Number: **21-021A**

Effective Date: June 9, 1988

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Revised Date: December 16, 2015

C. ADMINISTRATION

1. The Vice President, Human Resources is responsible for the administration and interpretation of this Policy. No exceptions to this Policy will be considered valid unless approved in writing by the Vice President, Human Resources.
2. This Policy sets forth only guidelines and does not constitute a contract, express or implied. Metro-North Railroad expressly reserves the right to change or cancel this Policy at its sole discretion at any time.

