

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

BNSF RAILWAY COMPANY,

Plaintiff,

v.

INTERNATIONAL ASSOCIATION OF
SHEET METAL, AIR, RAIL AND
TRANSPORTATION WORKERS –
TRANSPORTATION DIVISION,

Defendant.

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Civil Action No. 4:22-cv-0052-P

DECLARATION OF JOSEPH MICHAEL LAPRESTA

I, Joseph Michael LaPresta, pursuant to 28 U.S.C. § 1746, declare that the following facts are true and correct:

1. I am the General Chairperson (“GC”) of the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (“SMART-TD”) General Committee of Adjustment (“GCA”) GO-001. I have served as a full-time employee of GO-001 as General Chairperson (“GC”) since March 12, 2016. Prior to being GC, I served as Associate Chairperson of GCA GO-001 from June 1, 2013, until March 11, 2016, and before that as Second Associate Chairperson from January 1, 2008, until May 31, 2013. I understand this Declaration is being offered in support of SMART-TD’s Memorandum in Support of their Motion for Preliminary Injunction. This Declaration is based on personal knowledge, and I am competent to testify to the matter set forth herein.

2. As GC, I am responsible for negotiating, interpreting, and enforcing the collective-bargaining agreements (“CBAs”) under my jurisdiction between my GCA, or SMART-TD, and Burlington Northern Santa Fe (“the Carrier” or “BNSF”). As GC, I am

familiar with the applicable local and national agreements, and various work practices which have become an integral and implicit part of those agreements between SMART-TD and BNSF.

3. Throughout the COVID-19 pandemic, BNSF employees have been deemed essential and have worked tirelessly for over twenty-two months to try to maintain the nation's supply chain. Over the past several years, BNSF has slowly decreased the daily layoff allotment at each location. At the majority of locations, allocation numbers only allow for enough time off to cover the contractual days off, *i.e.*, employees in essence are unable to take off. Manpower is not high enough to cover any additional layoffs. After years of employee cuts and furloughs by BNSF, and in furtherance of its endeavor to do more with less, BNSF decided to stretch its employees even further by creating, and unilaterally implementing, its new High Visibility ("Hi Viz") attendance policy, which became effective February 1, 2022.

4. In addition to the unexpected occurrences that happen in everyday life, the practical realities of the current global health crisis has required employees to need time off unique to the pandemic, including for personal sickness, family sickness, quarantine, side effects of vaccines, and remote learning for their children. Meanwhile BNSF management, including Labor Relations personnel who decided to impose this draconian Hi Viz policy, have been working remotely from the comfort of their own homes. In addition, Trainmasters enjoy a rotating schedule of four days on, three days off, three days on, four days off. This arrangement allows these management personnel with the flexibility that the SMART-represented employees in the field, who are the backbone of the railroad keeping freight moving, simply do not have the luxury to do.

5. The railroad is an inherently dangerous place to work. Employees are surrounded by heavy moving equipment, danger lurking with each step and around every corner. With

each step they encounter uneven surfaces and unstable heavy ballast that require them to be alert and constantly surveying their surroundings. Railroads operate 24 hours a day, 365 days a year, requiring employees to work long hours in often extreme conditions of heat or cold and all types of weather. Due to BNSF attendance policies, many employees go to work fatigued because they cannot get time off without being penalized. This type of environment is not forgiving and can result in a lost limb or life when an employee is not fully alert. And while Congress has recognized the inherent dangers in the railroad industry, *see* Federal Employees Liability Act, 45 U.S.C. § 51 *et seq.*; Rail Safety Improvement Act of 2008, 49 U.S.C. § 20101 *et seq.*; Hours of Service Act, 49 U.S.C. § 21101 *et seq.*, these jobs are still among the most dangerous in the country.

6. As note, railroad operations are 24/7/365, traversing along densely populated areas as well as remote locations. Some employees work local yard jobs, meaning that they report to a yard and then return home after each shift; while others work on road jobs requiring travel to an away-from-home terminal, which can require several days travel. While some employees may work a set schedule, others work in what is referred to as “unassigned service.” Approximately ninety-nine percent of unassigned service on BNSF does not have an assigned on-duty time; whereas assigned service has an assigned on-duty time, meaning the employees know what time they will report and begin service each day. Traditionally, those working in unassigned service never had any time off or rest, meaning these employees had no scheduled off days; they are required to be on call 24/7/365.

7. BNSF’s attendance policy prior to the Hi Viz policy looked at attendance at a rolling three-month intervals, and required employees working in unassigned service to be available 75% of the time. As a practical matter, this meant they could lay off on average five

weekdays and two weekend days each month, and never be in violation of that policy. This allowed for these employees to use that time to attend to their daily lives, including any necessary appointments. To put this into perspective in terms of availability percentage, an individual who works five days a week with two days a week off, is available for 71% of the year (not including vacation time and personal leave). A true and correct copy of that policy is attached as Exhibit G. Here, an employee in unassigned service who is available 94% of the time (excluding earned vacation) could still violate the Hi Viz policy. Indeed, under the new Hi Viz policy, employees are expected to maintain 95% availability.

8. The Hi Viz policy will create hardships for employees and their families. Such a harsh and severe policy is particularly egregious during a worldwide public health emergency. Employees are exhausted. They are frustrated. The current working environment is simply unsustainable. For those reasons, the members have been flooding our offices with concerns, and speaking out online and to the media. In fact, members and their relatives even showed up outside the courthouse on the day of the TRO hearing.

9. For those who live in remote areas of the country, it will often require a full day or two of travel to get to appointments or hospitals. While employees on FMLA may not be penalized for attending certain medical appointments or providing care for FMLA approved reasons, many illnesses and situations that require time off are not covered under FMLA. Accounting for these circumstances is precisely why the Railroads and Union have placed these topics into the current round of negotiations, including employee availability for work, predictable work schedules, and sick leave.

10. In preparation for the Union's Motion, I solicited input from members to the real-world impact of how the policy affects them. In just three days, I received an overwhelming

response of hundreds of comments, several of which really highlight the devastating impact of this policy.

11. As an example, one email I received detailed a situation of two married BNSF employees who have two young children, both of whom were born premature from high-risk pregnancies. In addition to “regular” doctors’ appointments and check-ups, the children must be taken to a hospital 8 hours away for their annual and any follow-up appointments. Due to pandemic-related rules and having two children, one employee/parent must stay with the child who does not have an appointment. Recently, one child had an MRI at the hospital, which was 8 hours away, necessitating three days of FMLA leave (one-day to drive down, appointment day, and a one-day drive back). For the MRI, one employee had to lay off four times to attend the appoint and their spouse had to lay off once to care for the child at home. The following week, the employee laid off again to care for their children when their childcare was not available. The employee then laid off a fifth time due to exhaustion and not feeling safe enough to run a train as an engineer. Though the employee had never violated BNSF’s attendance policy, if the Hi Viz policy had been in effect, for the first-time offense, they would have been subject to a 10-day suspension and 12-month review period, second offense would have been subject to a 20-day suspension and 24-month review period, and the third offense would trigger a dismissal.

12. Another employee, who is the sole breadwinner, has a wife with multiple serious health issues for which he has approved intermittent FMLA leave. Many of his wife’s doctor’s appointments are out of state. There are times where the employee will have to use FMLA at the end of book rest because they are either not home yet from an out-of-state appointment, or his wife’s condition requires him to stay home to care for her.

13. A third example is an employee who has a court order granting visitation with their son every other weekend. When they were hired approximately eight years ago, BNSF advised that they could lay off two weekend days per month without penalty. However, under this new policy they will not be able to see their son if they want to remain employed with BNSF.

14. A fourth example is of an employee who is a single parent with two handicapped children, for which they have FMLA leave. The employee is formerly a Local Chairperson (“LC”). LC’s duties include representing members at investigations, the dates of which are scheduled by BNSF. In addition to the investigation hearing itself, a LC’s representation may include the time spent preparing for the hearing in advance and drafting the appeals following the investigations. This particular employee’s daughter’s condition requires visits with specialists in various cities, scheduling for which occurs months in advance. Depending on where the employee stood on the board to work, how long it would take to drive to the appointments, and how long the appointments would last, the employee would often need to lay off multiple days in advance in order to attend the appointment. One such appointment which took years to obtain required them to lay off 96 hours FMLA due to the associated five-hour travel and two-day appointment. After repeatedly checking to see when she would be going to work, the employee was eventually informed that they would need to report the night they returned home from the hospital and traveling all day. Because the employee would not be sufficiently rested and therefore unsafe, they attempted to lay off personal business, but was denied. The employee then had to lay off sick. Under the new Hi-Viz policy, this employee would have had nine points deducted due to it being in conjunction with an FMLA layoff and it being a weekend day. If this individual was still a LC, she would have to choose whether she could continue with her Union

work. Another example on an LC of another GCA detailed that if the Hi Viz was in effect in January, that LC would have hit his 30 points and been subject to discipline in just the first month. *See* Exhibit I.

15. At no time did BNSF attempt to negotiate the terms of the Hi Viz policy. The BNSF GCs objected to the Carrier's unilateral action and sought assistance from the International Union. BNSF subsequently filed suit against the Union, and sought a Temporary Restraining Order to stop the Union from strike activity. After the litigation commenced, on January 25, 2022, BNSF held a meeting with the GCs, wherein it announced the changes would take place on January 31, 2022. Notably, however, BNSF did not discuss any of the potential changes during that meeting. A true and correct copy of those changes are attached as Exhibit H. The changes made were minimal at best, and did not address the issues and concerns of our membership. Employees will have to make a choice between family and their job. Under this new policy, employees will also be required to choose to lose points or go to work when sick and/or working fatigued, placing themselves and others at risk. Local Union officers will also have to choose between losing points and laying off to represent a member. None of these should be a choice in the modern workplace.

I declare under penalty of perjury that the following is true and correct to the best of my knowledge.

Executed this 2nd day of February, 2022.



Joseph M. LaPresta



TY&E Attendance Guidelines Training



Updated April 1, 2021

Reason for Update:
- change in threshold for 4/2 Earned Rest (page 8)

Ex. G

BNSF Attendance Guidelines

- **Why we have guidelines**
- **Important notes about the guidelines**
- **How the guidelines work**
- **Thresholds**
- **Discipline progression**

BNSF Attendance Guidelines

Why we have guidelines

- To ensure that we are able to meet the expectations of our customers to move their freight in a timely manner
- Assigned rest days, work/rest cycle agreements, RSIA rest, layover days, and agreement-provided compensated days off are available to you for personal business
- Additional time off over and above what's mentioned in the bullet point above is established generally to cover intermittent illness of employee or family members not covered by other avenues

BNSF Attendance Guidelines

Important notes about the guidelines

- **Additional time off over and above rest or covered time off must be earned and used appropriately**
- **The guidelines seek to establish a potential threshold (a boundary) for additional time that an employee “might” lay off; however, it is the employee’s responsibility to maintain the appropriate level of availability to perform full time service**
- **It may not always be advisable for an employee to lay off any or all of a potential threshold, as limiting work/available time may cause an employee to fall below an acceptable service performance level**
 - **Using covered and uncovered layoffs in a manner which seeks to inappropriately minimize being called for service, or maximizing guarantee while minimizing call opportunity, should be avoided**

BNSF Attendance Guidelines

How the guidelines work

- The basic premise of the guidelines is to set a “threshold” boundary for uncovered layoffs
- The layoff threshold is the amount of time you might lay off in a period (remember it is your responsibility to ensure you are meeting an acceptable service performance level)
- Your threshold is based on the amount of time you are otherwise marked up and available for service
- Your layoff threshold depends on the type of assignment you hold (as rest days are considered) and how much “excluded time” you observe
- Compliance is measured on a rolling three-month period (although each month is figured independently); the three-month rolling basis applies regardless if you have been in active service for the full three months

BNSF Attendance Guidelines

Excluded Time

- Your layoff threshold is earned based upon the time you are otherwise marked up and available for service
- Some time away from work is considered excluded time; you do not earn any threshold for excluded time
- Excluded time includes, but is not limited to, vacation, paid personal leave days, medical leave, FMLA, time on the bump board, time on work retention and furlough boards, travel time to new assignment, etc.
 - Note: time on bump board will count as a layoff for employees subject to call if there is a failure to take notification for greater than 10 hours
- Excluded time does not count as a layoff, but the time will ultimately lower your overall layoff threshold

BNSF Attendance Guidelines

Layoff Thresholds

- **5-day service assignments (assignments working 5 starts with 2 rest days, 05/02 extra-boards, daily mark, etc.) may earn 1 “any day” per month**
 - Excluded time will reduce this threshold
 - You must be marked up and available for service at least 16 calendar days in a month in order to earn the 1 “any day” (otherwise the threshold is 0)
 - Note, to ensure understanding, 6-day assignments that work 5 days/starts a week, with 1 RSIA day and 1 rest day, get 1 “any day” per month
- **6-day service assignments (assignments working 6 starts with 1 rest day) may earn up to 2 weekdays (WD) and 1 weekend (WE) day per month**
 - Excluded time will reduce this threshold
 - WD – you have to be available at least 16 WD to earn the 2 WD days; 8-15 earns 1 WD, 0-7 earns 0 WD
 - WE – you have to be available at least 6 WE days to earn the 1 WE day off; 0-5 earns 0 WE
 - Rest days are included as available time

BNSF Attendance Guidelines

Layoff Thresholds (continued)

- **06/02 mandatory rest cycle assignment (Ottumwa & Wishram)**
 - Maximum threshold is 1 “any day” per month
- **14/1 assignments may earn up to 3 weekdays (WD) and 2 weekend days (WE) per month in addition to their rest days**
 - Excluded time will reduce this threshold
 - WD – you must be available at least 18 WD per month to earn 3 WD; 12-17 earns 2 WD ; 7-11 earns 1 WD and 0-6 earns 0 WD
 - WE – you must be available at least 8 WE days to earn 2 WE days; 5-7 earns 1 WE; 0-4 earns 0 WE
 - Rest days are considered available time
- **Suburban Services assignment with “rotating” rest days – 5/2 and 6/1**
 - Maximum threshold is 1 “any day” per month
- **03/04 assignments**
 - Maximum threshold is 1 “any day” for a 3-month rolling period (1/3 day per month)

BNSF Attendance Guidelines

Layoff Thresholds (continued)

- **04/02 Earned Rest assignments**
 - May earn up to 2 weekdays (WD) and 1 “any day” per month
- **04/03 assignments**
 - Maximum threshold is 1 “any day” for a 3-month rolling period (1/3 day per month)
- **PNW Triangle assignments may earn up to 2 weekdays (WD) and 1 weekend (WE) day per month**
 - Excluded time will reduce this threshold
 - WD – you must be available at least 16 WD to earn the 2 WD days; 8-15 earns 1 WD, 0-7 earns 0 WD
 - WE – you must be available at least 6 WE days to earn the 1 WE day off; 0-5 earns 0 WE
 - Rest days are included as available time
- **PWS (Predictive Work Schedule) assignments earn 1 “any day” ****

**Unless otherwise noted at specific location

BNSF Attendance Guidelines

Layoff Thresholds (continued)

Notes:

- For all of the above assignments, you must be marked up and available for service at least 16 calendar days in a month in order to earn any threshold
- If all assignments for the month are a combination 05/02 and 06/02 assignments, the employee is considered in mixed rest (MR) which defaults to 1 any day
- As a reminder, time off over and above rest days is not a “given” and is for emergency situations

BNSF Attendance Guidelines

Yardmasters

- Regularly assigned and GREB yardmasters get one “any day” per month
- Extra list
 - TY&E employees that are extra list Yardmasters are contractually obligated to protect Yardmaster service even when on rest days; however, we have provided the option for employees to LYR up to two times per month on rest days (the system will generate a threshold to offset these two layoffs – also, LYR does not count against any guarantee)

BNSF Attendance Guidelines

Unassigned Service

- In unassigned service (UN) where rest cycle boards have not been chosen for implementation, the following applies:
 - Your potential layoff threshold (boundary) will be 25% of weekdays (WD) and 25% of weekend days (WE), measured separately, in a given month
- 25% is based on the time you were otherwise marked up and available for service
- There are a number of factors that can affect your potential layoff threshold
- Your potential threshold is affected by:
 - The number of days in the month
 - The amount of time you were not marked up and available for service (excluded time)

BNSF Attendance Guidelines

Unassigned Service (continued)

- Let's look at a couple of months to show how the number of days in the month affects the layoff threshold (this example assumes there is no excluded time):

September	WD	WE
Total Days	20.00	10.00
25%	X .25	X .25
Layoff Threshold	5.00	2.50

October	WD	WE
Total Days	23.00	8.00
25%	X .25	X .25
Layoff Threshold	5.75	2.00

BNSF Attendance Guidelines

Unassigned Service (continued)

- Let's look at an example of how **excluded time** affects the potential threshold for an individual month
- In this example, in October you observed the following:
 - 7 days of vacation (5 WD and 2 WE)
 - 3 days on bump board (2 WD and 1 WE)
 - 1 paid personal leave day (1 WE)
 - **Total excluded is (7 WD and 4 WE)**

October	WD	WE
Days in Month	23.00	8.00
Minus Excluded Time	- 7.00	- 4.00
Remaining Days	16.00	4.00
Multiply by 25%	X .25	X .25
Layoff Threshold	4.00	1.00

BNSF Attendance Guidelines

4/2 Earned Rest

- Pool assignments that have access to the “Earned Rest” fatigue mitigation program are subject to the following:
 - If booked “earned” rest is followed by an ATG layoff without a working start between the expiration of earned rest and the layoff event, the Attendance Guidelines will consider the entire time (booked rest period through end of ATG layoff) as unavailable time in connection with the layoff threshold.
 - **Example 1:** Employee X books 48 hours rest that starts at 0200 on Saturday and then subsequently lays off sick (LOS) on Monday at 1900 without a working start between the “earned” rest and LOS. The employee then marks back up Tuesday at 0100. The employee would be charged with 2 weekend days (Sat/Sun) and 1 weekday (Mon).
 - **Example 2:** Employee X books 24 hours rest that starts at 1500 on Tuesday and subsequently lays off personal (LOP) on Thursday at 2200 without a working start between the “earned” rest and LOP. The employee then marks back up Friday at 1400. The employee would be charged with 3 weekday layoffs (Tue/Wed/Thu).
 - The unavailable time will be designated “Rest Day Unavailable” (“RDU”).
 - If employees use non-ATG layoffs (i.e. vacation, personal leave day), there will be no change to the current handling under the ATG.

BNSF Attendance Guidelines

Mixed Service (MX)

- **Mixed service is when you have various assignments within a month that have differing layoff thresholds (example, you work a 5-day assignment part of the month and unassigned extra board part of the month)**
 - **Exception will apply when the mixture of assignments in the month is a combination of rest cycles or rest cycles and 05/02 assignments – those will be Mixed Rest (MR) and will default to 1 any day**
- **In mixed service the potential layoff threshold (boundary) will be 25% of weekdays (WD) and 25% of weekend days (WE), measured separately, in a given month**
- **This 25% includes your rest days (in other words, any rest days observed while in assigned service count as layoffs against the 25% threshold)**
- **How is it measured? You start out the same as unassigned by determining the initial 25% layoff threshold – then you have to subtract all rest days observed**
- **The resulting threshold is the potential number of layoff days you might lay off over and above rest days**

BNSF Attendance Guidelines

Mixed Service Calculations (Scenario 1)

- This is a straight forward calculation, and we will look at a scenario that is a little more complicated later, but in the end it is still just a matter of 25% less rest days
- The first step is to determine the initial 25% threshold in the same manner as unassigned service as follows:
 - In the month of July, there are 22 WD and 9 WE days. After removing excluded time and multiplying by 25%, this is the initial threshold result (before considering rest days):

July 2007	WD	WE
Days in Month	22.00	9.00
Minus Excluded Time	- 2.00	- 1.00
Remaining Days	20.00	8.00
Multiply by 25%	X .25	X .25
Initial Layoff Threshold	5.00	2.00

BNSF Attendance Guidelines

Mixed Service Calculations (Scenario 1)

- Referring to the previous slide, **you earned** a potential **7** days off (5 WD and 2 WE); during the month **you observed** **4** rest days (3 WD and 1 WE), **leaving** a total of **3** days that you can layoff over and above rest days
- The next question, after subtracting rest days observed - is the remaining threshold on the WD or WE? The answer is dependent upon how much of your 25% you used up with observed rest days:

July 2007	Total	WD	WE
Initial 25% layoff threshold from previous slide	7.00	5.00	2.00
Less rest days observed	- 4.00	- 3.00	- 1.00
Threshold to lay off over & above rest days	3.00	2.00	1.00

BNSF Attendance Guidelines

Mixed Service Calculations (Scenario 2)

- In this scenario, the initial 25% threshold is **7** total days (5 WD and 2 WE) – you observed **6** (WE) rest days, so the layoff potential is **1** day over and above rest days
- The next question is, what is the remaining WD/WE threshold after subtracting out rest days observed? The answer is dependent upon how much of your 25% you used up in each area
- Did you use up all of your 25% WE allotment with observed rest days? If the answer is yes, your threshold can only be on a WD

	Total	WD	WE
Initial 25% threshold	7.00	5.00	2.00
Less rest days observed	- 6.00		- 6.00
Time can lay off over & above rest days	1.00		
Did you use your 25% WE time up with rest days? Yes, so can only apply time to WD			
Threshold to lay off over & above rest days		1.00	

BNSF Attendance Guidelines

Mixed Service

- So, what's important in mixed service is to
 - Keep up with your 25% initial threshold for WD and WE
 - Keep up with your rest days (as rest days observed are counted as layoffs against the threshold)
- And remember this helpful rule of thumb:
 - In a month when you are in mixed service, if you have observed at least 2 WE rest days, don't lay off on the weekend (over and above your rest days) or you will exceed the potential threshold every time

BNSF Attendance Guidelines

Weekday vs. Weekend

- Any unpaid layoff that touches a weekend counts against the weekend, for example:
 - Lay off 11:30 Friday, mark up 11:29 on Sunday (2 WE days)
 - Lay off 13:00 Sunday, mark up 12:59 on Monday (1 WE day)
 - As such, you may be charged with 3 weekend days over a single weekend
- Exception - 30 minute grace period:
 - If you mark up by 00:30 on Saturday or lay off after 23:30 on Sunday, it counts as a weekday
- Exception – for employees on a regular 5 or 6-day assignment, WD/WE is based on the assigned start of the shift (a start at 23:00 on Friday would count as a weekday; a start at 23:00 on Sunday would count as a weekend)

BNSF Attendance Guidelines

Counting Days Off

- Any layoff from 0-25 hours is counted as a day (there is a one hour grace period for counting full days). The following is the progression of counting days off:

Layoff Hours	Days
0 - 25	1.0
> 25 - 36	1.5
> 36 - 49	2.0
> 49 - 60	2.5

- However, if you are on a regular 5 or 6-day assignment and you have a layoff that spans 2 shifts, regardless of how many hours you lay off, you will be charged 2 days

BNSF Attendance Guidelines

Bunching Days Off

- Can we bunch days off? Yes, but you have to manage those days carefully (if you bunch in one month, you must watch the next 2!)
- Example, you are assigned to a 5 day job - under the 5 day assignment you have a potential of one any day per month
- In this scenario, you did not lay off any in October or November, choosing to take 3 days in Dec – this is OK - BUT, BE CAREFUL GOING FORWARD (see next slide)

	Threshold Earned	Layoff
October	1	0
November	1	0
December	1	3
Total	3	3

BNSF Attendance Guidelines

Bunching Days Off (cont.)

- Refer to the scenario in the previous slide →

	Threshold Earned	Layoff
Oct	1	0
Nov	1	0
Dec	1	3
Tot	3	3

- In January, you decide to take another day off over and above your rest days
- You are now over the guidelines by 1 day and subject to an investigation

	Threshold Earned	Layoff
Nov	1	0
Dec	1	3
Jan	1	1
Tot	3	4

3-Month Rolling Example

MO	Service	Total		Excluded		Layoff Threshold			Unavailable	
		WD	WE	WD	WE	WD	WE	ANY	WD	WE
May	5-day	23	8	0.00	0.00	0.00	0.00	1.00	1.00	1.00
Jun	5-day	21	9	0.00	0.00	0.00	0.00	1.00	0.00	0.00
Jul	5-day	22	9	15.50	1.50	0.00	0.00	0.00	0.00	0.00
(Threshold)		66	26	15.50	1.50	0.00	0.00	2.00	1.00	1.00

MO	Service	WD	WE	WD	WE	WD	WE	ANY	WD	WE
Jun	5-day	21	9	0.00	0.00	0.00	0.00	1.00	0.00	0.00
Jul	5-day	22	9	15.50	1.50	0.00	0.00	0.00	0.00	0.00
Aug	MX	23	8	3.00	0.00	4.00	1.00	0.00	0.00	2.00
(Threshold)		66	26	18.50	1.50	4.00	1.00	1.00	0.00	2.00

MO	Service	WD	WE	WD	WE	WD	WE	ANY	WD	WE
Jul	5-day	22	9	15.50	1.50	0.00	0.00	0.00	0.00	0.00
Aug	MX	23	8	3.00	0.00	4.00	1.00	0.00	0.00	2.00
Sep	UN	20	10	0.00	3.00	5.00	1.75	0.00	2.50	3.00
(Threshold)		65	27	18.50	4.50	9.00	3.00	0.00	2.50	5.00

BNSF Attendance Guidelines

Missed Calls, Lay off on Call, No-Shows

- **If you are issued discipline or alternative handling for a LOC, EMC, or NOS, that day will NOT be counted against you in the attendance process as a layoff (status will be changed from layoff unavailable to excluded time)**
- **If you are not issued discipline or alternative handling, you will be held accountable for that day under the attendance guidelines as a layoff**

BNSF Attendance Guidelines

Death in Family (DIF)

- **DIF is for employees who experience the unfortunate loss of a family member covered by bereavement pay and need an immediate layoff**
- **DIF is excluded time, however, if documentation substantiating bereavement pay is not submitted to Comp Systems by the 10th of the following month, the DIF layoff time will be considered unavailable**
- **Check System General Notice – TYE Time Off for complete instructions on use of this code**

BNSF Attendance Guidelines

Family Emergency & Failure to Tie-up

- **Family emergency:**

- There is a system general notice that requires you to contact your supervisor with 24 hours of laying off FEM; should you fail to do so, you are subject to investigation for failure to comply. Any layoff for family emergency (FEM) is considered part of your layoff threshold and you are always accountable for that time off under the attendance guidelines, regardless if you have been investigated for failure to comply

- **Failure to tie-up**

- There is a system general notice that requires you to tie-up from service and failure to do so becomes subject to investigation for failure to comply with instructions
- Any failure to tie-up (LFT) is an attendance event and will count as a layoff regardless if you have been investigated for failure to comply with instructions

BNSF Attendance Guidelines

Lay Off/Mark Up for Outlying Assignments

- **Following a layoff, employees assigned to outlying positions must mark-up prior to the tie-up of their regular assignment in order to release the extra board employee covering their position**
- **If an assigned employee fails to mark-up prior to the tie-up of their regular assignment, the extra board employee will be held to protect the assignment's next tour of duty and the regular employee will be charged an unavailable day (UTO) under the Attendance Guidelines**

NOTE: This does not apply going into the rest days of the assignment

- **Example: Employee Smith fails to mark-up from a one day sick layoff prior to the tie-up of their assignment and, as a result, ends up missing two days of his/her assignment. Employee Smith will be charged with a 2 day absence under the Attendance Guidelines**

BNSF Attendance Guidelines

Doctor's Excuses

- Doctor's notes are not required (nor are we soliciting them) for intermittent LOS events
- However, if you decide that you wish to provide your supervisor with a doctor's note for short term periods of illness prior to a possible attendance investigation, we will review the information on a case by case basis and take it into account when determining next steps – but, you should not have an expectation that the time will be excused under the attendance guidelines
- If you have an illness which precludes you from working for an extended period of time, you should obtain a medical leave

BNSF Attendance Guidelines

Violations in Overlapping Periods

- **Following discipline for a period, going over the threshold in either of the next two periods will result in an attendance violation if the total days off in the following one or two months exceeds the maximum threshold for the entire three-month period. The following are examples:**
 - **You are disciplined for attendance for the period of Jan-Mar. For the period of Mar-May, your three-month threshold is 6 WE days. For the period, you laid off 7 WE days. You laid off 2 WE days in Apr and 2 WE days in May. You are not subject to discipline for Mar-May as the layoffs in the non-overlapping months did not exceed the three-month threshold.**
 - **You are disciplined for attendance for the period of May-Jul. For the period of Jul-Sep, your weekend threshold for the entire three-month period is 4 days. In the months of August and September alone (non-overlapping months), you took 5 WE days. You are subject to discipline for Jul-Sep, as the layoffs in the non-overlapping months exceeded the three-month threshold.**

BNSF Attendance Guidelines

Military Service (National Guard, Drill, Training, State Emergencies, etc.)

- You will need to provide your supervisor with a copy of your annual training schedule, along with subsequent orders (or your LES), in order for your military service to be counted as available time
- This is necessary so that your supervisor may update your service time as available time in the attendance system; otherwise, you may have an attendance exception which is subject to discipline

BNSF Attendance Guidelines

ATG Discipline Progression

- The following is the progression of discipline for attendance only (assumes attendance is the only discipline on file)
 - 1st Offense 10 Day Suspension
 - 2nd Offense 20 Day Suspension
 - 3rd Offense DISMISSAL
- Attendance combined with other disciplinary events are subject to dismissal – for example:
 - 2 Attendance and 1 Level “S”
 - 5 violations of any kind in a 12 month period
 - Example: 1 Attendance, 2 EMC, 1 LOC, and 1 Level “S”

Our new Hi-Viz attendance program for scheduled employees will roll out tomorrow, February 1 with some adjustments. Over the past several weeks, Transportation management spent considerable time across the system—in the field, in breakrooms and at on/off duty points—working alongside and listening to employee ideas and thoughts about Hi-Viz.

That input was heard and appreciated. Based on this feedback, we will make several adjustments in support of the Hi-Viz program implementation. These changes are outlined below and are reflected in the updated System General Notice.

I appreciate everyone who took the time to share their opinions. Although these changes may not address everyone's ideas, we believe the adjustments do address much of the feedback voiced over the past few weeks. As with any new program, we will continue to review progress after implementation to ensure Hi-Viz fairly addresses our operational needs while giving employees the ability to manage their time off appropriately.

Changes in support of the Hi-Viz implementation:

- Improving scheduled days off by implementing rest cycle agreements: BNSF Transportation leaders continue to work with union partners to provide employees access to predictable off time while also providing the company with a stable level of workforce availability, including our continued focus on ways to improve home cycle times for non-work/rest pools/extra boards. Along with the continuation of dozens of 4/2 earned rest agreements, several new fatigue mitigation pilots for unassigned through-freight pools will begin in February, including the traditional 7/3 work/rest cycle and 6/3 earned rest agreements. We remain optimistic these efforts will prove successful to improve work life balance while maintaining desired earning potential.
- Increased allocations for Personal Leave Days/Single Day Vacation: BNSF will increase PLD/SDV allocations by 25% to provide employees additional flexibility for things like doctor and dentist appointments. This adds approximately 25,000 additional days in 2022 across the system—well in excess of required allocated days.
- Good Attendance Credit period will not restart for Jury Duty or Death in Family events: LOJ/DIF events will be considered available time and will not restart the 14-day period toward earning a Good Attendance Credit.
- Discipline review period reduced for first offense: The discipline review period for a first (10-day) infraction under Hi-Viz will be cut in half to 12 months. The discipline review period for a second infraction (20-day) will remain 24 months.

As a reminder, all Hi-Viz point totals will be reset upon implementation at 0001 hrs. CT on February 1. The FAQ's that have been previously sent are a great resource, please take the time to look through these so you can answer any of your employees questions.

Events for employee [REDACTED]

Event Type	Status	Service	Event Date	Points	Balance
LOS	Pending	A	1/29/22 01:40 SA	-7	
UNB		A	1/27/22 00:57 TH	0	16
LOS	Pending	A	1/25/22 23:40 TU CP	-10	
LOS		A	1/24/22 22:24 MO	-7	16
LOS		A	1/23/22 11:35 SU	-7	23
UNB		A	1/11/22 18:49 TU	0	30
Beginning Balance			1/1/22 00:00 SA	30	30