



PEPA Update 2017 Questions and Answers

1. Why is BNSF updating the Policy for Employee Performance Accountability (PEPA)?

BNSF has updated PEPA to incorporate Risk Reduction Education (RRE), a non-disciplinary means to address certain rule violations.

In addition, the update includes a formatting change that makes PEPA consistent with other policies.

2. What are the major changes in PEPA?

The basic tenets and application of the policy remain the same. The primary updates include the following:

- The addition of RRE as a non-disciplinary alternative to address certain rule violations and at-risk behaviors. This now provides all BNSF union employees with a non-punitive alternative to the discipline process.
- The length of discipline-free service required for a reduced Level S Review Period has been reduced from five years to three. In other words, an employee with at least three consecutive years of discipline-free service immediately preceding a Level S violation may qualify for a reduced review period of twelve months.
- The format of the policy has been changed to be consistent with other BNSF policies.
- The policy is easier to navigate, with lists of Serious and Stand-alone violations listed in the core of the policy, rather than in an appendix.

Risk Reduction Education

3. What is RRE?

Risk Reduction Education (RRE) is a collaborative alternative to the formal discipline process that encourages a substantive, non-punitive discussion about an incident in order to identify root causes of an incident and develop preventive measures. The goal of RRE is to facilitate critical thinking about the underlying factors that contributed to an incident, which will allow the employee to create an action plan to eliminate those factors going forward.

4. Who is eligible to receive RRE?

All BNSF union employees will have access to RRE.

5. How does an employee know if he/she is eligible for RRE?

To be eligible for RRE, an employee must accept responsibility for the incident, actively participate in the process, and meet the initial eligibility requirements based on the employee's record, defined by the applicable labor agreement or PEPA.

Employee must accept responsibility, even if not at fault.

- a. **Employees who are not covered by a collectively bargained agreement that provides for some alternative to the formal discipline process.**

For these employees, the eligibility criteria comes from section IV. E. 2. of the policy. Initially the employee must be eligible based on his or her record. Employees are generally not eligible for RRE if they have the following:

1. One prior RRE event in the previous 12 months
2. A violation that resulted in formal discipline -- or an RRE incident of a similar nature -- in the previous 24 months
3. Two formal discipline events in the previous 24 months
4. Been approved for a RRE plan in the previous 36 months, but failed to successfully complete the plan
5. An active Level S violation

Next, the violation itself must be the type of violation for which RRE is appropriate. **Generally, RRE will be available for Standard Violations. For all other violations, RRE is discretionary based on the nature of the violation and the facts and circumstances of the particular case.**

In addition, **PEPA notes that RRE eligibility is discretionary and will depend on the circumstances surrounding an incident, and any other relevant facts.**

- b. **Employees who are covered by a collectively bargained agreement that provides for some alternative to the formal discipline process.**

For these employees, the eligibility criteria stems from the language of the applicable agreement and its interpretations. For example, **if an employee has access to an alternative form of handling through the Safety Summit Agreement, the employee's supervisor would initially determine whether the employee was eligible by referencing the Agreement.** Once it is determined that the employee is eligible, the employee would receive RRE under the standard RRE process as defined in PEPA.

6. **What if an employee is already covered by an agreement that provides for some form of alternative handling?**

Some employees may be covered by an agreement that provides for an alternative to the formal discipline process. For those employees, the language of the agreement will apply to determine if an employee is eligible for RRE (see section III. of the policy). However, all employees will follow the same process with respect to the administration of RRE (see section IV. E. 3).



Employee gives up all rights, allowing BNSF to blame the employee for everything that happened.

7. How does RRE work?

The process for RRE is set forth in Section IV. E. 3. of the policy.

Beginning of process: The process begins when the eligible employee makes a request for RRE and completes an RRE acknowledgement no later than 48 hours prior to the initial scheduled date and time of the investigation. **To receive RRE, the employee must waive his or her right to a formal investigation, accept responsibility for the rule violation or at-risk behavior, and agree to fully participate in RRE.**

Pre-work prior to RRE discussion: Upon agreeing to these terms, the employee will receive a packet from their supervisor outlining the RRE process. The employee must review the RRE packet and complete the required pre-work to ensure a successful discussion his or her supervisor. The packet is designed to be utilized as a primer to help facilitate a discussion between the employee and the supervisor regarding the root causes of an incident (discussed in more detail in question eight).

Timing of RRE discussion: This discussion must be held within 21 days of the date the employee completes the RRE acknowledgement.

RRE action plan: At the conclusion of the discussion with the supervisor, an action plan is created based on the information shared and ideas created during the discussion. The elements of this action plan are to serve as measures preventing similar incidents. The action must be tailored specifically for the incident in question and based on the information and ideas that came from the employee's discussion with the supervisor. This action plan must be completed within 30 days after the meeting with the supervisor to remain in good standing for future RRE eligibility.

8. What are the 5 Whys and how is that process important to RRE?

Included in the RRE packet is a section on "the 5 Whys." An integral part of the RRE process, the 5 Whys is a brainstorming tool that can help identify the root cause(s) of an at-risk behavior.

Asking five "why-style" questions will help to identify the person, task or process that triggered the at-risk behavior. Asking these questions allows the employee to move beyond the obvious causes and discover other less obvious causes. Each "why" encourages a deeper review of the root cause(s) of an incident.

Let's use seatbelt use as an example. An employee might say that he or she chose not to wear a seatbelt because it was uncomfortable. But as the employee and supervisor continue to ask "why," they probe the reasons for the decision and explore ways to prevent that at-risk behavior in the future. In this example, the less obvious factor may be that the seatbelt adjuster was broken, which led to the seatbelt being uncomfortable for the employee. In identifying and addressing the true root cause, we are enabling the employee to recognize and use the safe behavior in the future.

9. The policy says that some violations may qualify for expedited handling. What is expedited handling and what violations would qualify?

It is recognized that there may be some violations for which the RRE process would not add value. The determination of what violations would be eligible for expedited handling shall be made by each functional department.

10. How will an employee be compensated for time spent completing RRE?

The employee's meeting with the supervisor will be considered training, and the employee will be compensated for the meeting pursuant to the existing rules under the applicable collective bargaining agreement. Employees must schedule meetings to minimize service, availability and cost impacts to BNSF.

11. Is an RRE event formally documented as part of the employee's disciplinary history?

No. Risk Reduction Education is a non-disciplinary means of addressing certain rule violations, and is not formally documented as part of the employee's disciplinary history if the employee completes the training plan associated with a violation.

12. What happens with the information collected during the RRE discussion?

The completed employee and supervisor packet should be retained until the process has concluded. The supervisor will enter the responses of predetermined sections into the safety database, EHS/STAR. These details will be used to identify trends across the system and across crafts.

On BNSF database forever.

General Policy Questions

13. Does the revised policy change the discipline progression for standard or serious violations?

No.

14. Has the list of stand-alone dismissible violations changed under the revised PEPA?

No.

15. Why was the time in discipline-free service needed to qualify for a reduced Review Period lowered from five years to three years?

An employee now needs three consecutive years, instead of five consecutive years, of discipline-free service immediately before a Level S violation to qualify for a reduced 12-month review period.

In reviewing the administration of PEPA since its inception, it was determined that three years of discipline-free service is a sufficient period to warrant a reduced review period.

16. Is the new three-year requirement retroactive?

No, the new three-year requirement to qualify for a reduced Review Period will only apply to violations that occur after the effective date of the new policy. For violations that occurred prior to February 2017, the five-year "look back" that was in effect at the time will remain.



Unilateral change by the carrier.

17. How will alleged rule violations that occurred prior to the effective date of this policy be handled?

All rule violations will be handled under the discipline policy in effect at the time of the incident. Alleged violations that occur on or after the date that the revised Policy becomes effective will be managed under the new Policy.

18. Why was "extended unauthorized absence" changed to "unauthorized absence (AWOL) of five or more consecutive days"?

The term "extended unauthorized absence" was added to the 2011 revision of PEPA, but the policy did not fully define qualified as an "extended" absence.

19. Will attendance violations be included in PEPA?

No, attendance violations will continue to be handled under departmental attendance guidelines.

20. Is PEPA a negotiated agreement with the labor organizations?

No, PEPA is a BNSF policy. It is not a negotiated agreement.

21. Why does BNSF have PEPA?

As stated in the policy, it "reinforces our commitment to a safe workplace and our individual commitment that every one of us returns home safely at the end of the shift." The vast majority of BNSF employees reliably comply with the rules; however, PEPA provides a process to enforce BNSF and federal safety requirements for those employees who disregard BNSF rules, procedures and safety.

22. If an employee allegedly commits a violation of the Use of Alcohol and Drugs Policy at the same time as another alleged rule violation, are the two alleged violations handled together or separately?

They are handled separately.

Because PEPA is not a negotiated agreement between BNSF and the Union, it is not subject to the RLA process, allowing the Unions and others to challenge it outside of RLA framework.