
BC INFRASTRUCTURE BENEFITS

Contractor Discipline Process Policy

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REVISION HISTORY

Date of revision	Reason (refer to blackline version to see revisions)
May 14, 2020	Initial Board Approval
July 15, 2021	Minor changes and formatting
December 8, 2022	Removal of "Recommendation for Discipline" form and created as a separate attachment to future contractor onboarding packages.
January 18, 2024	Include Absenteeism and job abandonment definition and process within Discipline.

1. PURPOSE

BC Infrastructure Benefits Inc. (“BCIB”) is the employer of all employees working under the scope of the Community Benefits Agreement between BCIB and Allied Infrastructure and Related Construction Council of British Columbia (the “CBA”).

The purpose of this Policy is to provide direction to any Contractor¹ engaged in work within a Project on its limited right to discipline BCIB’s employees and the process that must be followed in determining appropriate discipline, recording discipline, recommending discipline to BCIB, and reporting to BCIB.

2. APPLICATION

This Policy applies to all Contractors who are engaged in work within a Project as defined in the CBA (a “Project”).

BCIB has the exclusive right to discipline its employees except in the very limited circumstance where BCIB has delegated one of its management rights under section 7.400 of the CBA to the Contractor. The delegation of management rights are set out in the Contractor Agreement between a Contractor and BCIB (the “Contractor Agreement”).

3. PERMISSIBLE DISCIPLINE BY CONTRACTORS

3.1 DELEGATED DISCIPLINE - VERBAL AND WRITTEN WARNINGS

The Contractor Agreement allows a Contractor to issue both verbal and written warnings to BCIB’s employees. For your reference, section 8.2 of the Contractor Agreement reads as follows:

Notwithstanding anything to the contrary contained in this Agreement, the Contractor will be permitted to issue warnings to the Employees provided to the Contractor by BCIB. As soon as practicable after issuing a warning, the Contractor’s Representative will notify BCIB’s Representative in writing providing details of the warning.

The process for a Contractor to provide details to BCIB of a warning issued to an employee is provided below.

All other forms of discipline must be issued by BCIB. BCIB retains the right to issue warnings in the appropriate circumstances and may do so on its own accord or after considering a recommendation for discipline provided by a Contractor. BCIB has no obligation to follow the

¹ For greater clarity, the definition of “Contractor” in this Policy is the same as the definition in the CBA. Thus, the definition of Contractor includes “Sub-Contractors to Contractors” and suppliers who require a work force on the Project are also considered Contractors.

Contractor's recommendation for discipline and will issue discipline in its sole and absolute discretion pursuant to section 8.3 of the Contractor Agreement.

If the Contractor is not sure as to the appropriate level of discipline, the Contractor should not issue a warning, but should refer the matter to BCIB under section 8.3(b) using the process set out below and, if appropriate, take non-disciplinary action as set out in the next section.

3.2 NON-DISCIPLINARY ACTIONS

When an incident occurs at the Project Site with a BCIB employee, it may be necessary for a Contractor to take non-disciplinary action in addition to issuing a warning, and/or to take non-disciplinary action as an interim response while the Contractor refers the discipline matter to BCIB.

In the appropriate circumstances, a Contractor may direct an employee to (1) cease performing work, (2) leave the Site or (3) to report to BCIB's Site Representative for further action by BCIB, or any combination of the foregoing. These are non-disciplinary actions taken by the Contractor pursuant to its right to direct and supervise BCIB employees on a day-to-day basis.²

The primary purpose of these non-disciplinary actions is to allow a Contractor to act quickly and require an employee to cease performing work or leave the site to ensure the safety of the employee and/or other workers. Such circumstances may include but are not limited to impairment or possible impairment or other unsafe behavior, which affects the employee's immediate ability to perform work safely.

BCIB expects that in most cases where the Contractor takes one of the outlined non-disciplinary actions, the Contractor will require the employee to report to BCIB's Site Representative for further action by BCIB. In these circumstances, the Contractor must ensure that the employee does report to the BCIB Site Office upon this direction and ensure that BCIB is made aware of the action taken by the Contractor.

If it is not feasible for the employee to report to the BCIB's Site Representative, the Contractor should inform the employee that a BCIB representative will be in contact with the employee as soon as possible and the Contractor must immediately contact the BCIB Representative to notify BCIB that the employee has ceased work or left the Site.

Contractors must take care to ensure that BCIB's employees do not misconstrue the reason the employee is ceasing work or leaving the site: this action is non-disciplinary. When a Contractor requires an employee to stop work or leave the site because of safety concerns, the Contractor must advise the employee that the Contractor is taking such action for safety reasons and the employee will be referred to BCIB for investigation and a determination on discipline.

² These non-disciplinary actions may be set out as specific rights in your Contractor Agreement under section 5. Please refer to the applicable Contractor Agreement.

BCIB retains the exclusive jurisdiction to lay off employees under section 7.100 of the CBA, and to make decisions with respect to suspension or termination of employees. BCIB will also administer the adopted Construction Industry of BC *Substance Abuse Testing & Treatment Program Policy*, and the Workplace Discrimination and Harassment Policy and Procedures in accordance with those policies and the Contractor Agreement.

4. DISCIPLINE PROCESS AND DOCUMENTATION

4.1 HOW IS DISCIPLINE DETERMINED FOR BCIB EMPLOYEES WORKING ON THE PROJECT?

The following list sets out process steps to be taken by BCIB and the Contractor to determine the discipline of BCIB employees:

- a) Following an alleged incident of misconduct, including a breach of BCIB policies or a safe work practice, the Contractor will decide whether to issue a verbal or written warning, or make a recommendation for other discipline to BCIB. See below for a non-exhaustive list of misconduct which may be worthy of discipline.
- b) In the case of a written warning, and as appropriate with a verbal warning, the Contractor must consider all the relevant facts and the Employee's version of events prior to issuing the warning. A formal statement from the Employee should not be taken without union representation present. If the Contractor decides to refer the matter to BCIB instead of issuing a warning, BCIB will investigate the matter, including contacting the Employee for his/her version of events with union representation present.
- c) At the time of an incident, the Contractor must also determine whether other policies and procedures apply to the incident. For example, safety-related incidents may breach a safe work practice. Bullying and harassment or impairment/possible impairment must also be dealt with through other policies such as Workplace Drug and Alcohol Policy and the Workplace Discrimination and Harassment Policy. The Contractor must notify BCIB if any other policy or procedures has been engaged by the incident and proceed with the requirements of the applicable policy and/or procedures.
- d) If there is any indication that the employee may have an addiction, substance use dependency, or mental or physical disability, which may be affecting their conduct, the Contractor must refer the matter to BCIB as set out below (see section titled *Human Rights and Accommodation Considerations* below).
- e) The Warning or Recommendation for Discipline Form (the "WRD Form") must be completed by the Contractor to notify BCIB of a warning issued by the Contractor or to make a recommendation for discipline to BCIB.
 - i. Section 8.2 of the Contractor Agreement requires the Contractor to provide written details of the warning to BCIB as soon as practicable. This obligation is

to be executed by the Contractor completing the WRD Form and providing the WRD Form to BCIB as soon as possible but no longer than within 24 hours after the issuance of a warning.

- ii. The Contractor should not issue warning for an incident, if they intend to recommend discipline to BCIB. If there is any doubt as to whether a certain incident of misconduct deserves more severe discipline than a warning, the Contractor must refer the matter to BCIB for further investigation and determination of the disciplinary outcome by completing the WRD Form. In this event, the Contractor may direct the employee to cease performing work or vacate the site, pending further investigation by BCIB.
- f) Upon receipt of the WRD Form, BCIB will conduct any disciplinary investigation required, and issue the appropriate discipline, as necessary. The Contractor is required to participate in BCIB's investigation, as necessary.
 - g) Even where the Contractor makes no recommendation for discipline, BCIB retains the right to do so following the completion of the investigation.

4.2 WHAT EMPLOYEE CONDUCT MAY BE WORTHY OF DISCIPLINE?

The following are examples of non-exhaustive conduct that may warrant a verbal or written warning from the Contractor:

- Minor safety infraction
- Showing up to work late
- Absenteeism
- Minor insubordination; or
- Poor work performance.

The following are examples of non-exhaustive conduct that will warrant more severe discipline by BCIB, such as suspension or discharge, subject to investigation:

- Repeated absences or lateness
- Bullying
- Harassment
- Discrimination
- Major or repeated safety infractions
- Major insubordination
- Major error in work performance or repeated poor work performance
- Theft
- Repeated instances of the same or other misconduct
- Prior receipt of verbal or written warning(s)
- Suspicion of breach of the Substance Abuse Testing & Treatment Program Policy; or
- Aggressive, violent or threatening behavior.

ABSENTEEISM AND JOB ABANDONMENT

As set out above, absenteeism may warrant disciplinary action. It is the responsibility of the employee to report time away from work, including leaves such as sick days in accordance with the Contractor's absenteeism protocols. In the absence of legitimate justification, a failure of an employee to report time away from work may result in discipline action up to and including termination. The steps set out in section 4.1 above should be followed by the Contractor for any discipline arising from absenteeism.

However, an employee who is absent from work without permission or legitimate reason for more than three consecutive shifts without contacting their supervisor or BCIB may be considered to have abandoned their job and/or resigned their position. Such circumstances can result in an end of employment. As soon as a Contractor is aware that an employee has failed to report for three consecutive shifts, a Contractor must notify BCIB so that all appropriate steps may be taken in the circumstances.

4.4 HUMAN RIGHTS AND ACCOMMODATION CONSIDERATIONS

All BCIB employees are protected under the *BC Human Rights Code* from workplace discrimination on prescribed grounds.

Employees may have an addiction, substance use dependency, mental or physical disability, or other *Human Rights Code* prescribed ground which may be affecting their conduct. If there is any indication of these matters, the Contractor should complete the WRD Form but refer the matter to BCIB for further investigation rather than impose discipline. BCIB will consider its duty to accommodate its employees to the point of undue hardship on a case-by-case basis.

In the case of immediate safety concern, the Contractor may also remove the employee from site while the investigation occurs as set out above in the section titled "Non-Disciplinary Actions".

4.5 WARNING OR RECOMMENDATION FOR DISCIPLINE FORM (WRD FORM)

In most circumstances, BCIB expects to receive the WRD Form within 24 hours following an incident of misconduct. The Contractor should provide this form directly to the BCIB Site Representative in person or by email.

The Contractor must complete the WRD Form with the following information:

- Name of employee,
- Name of supervisor completing form,
- Description of the incident, including any relevant documents or photos,
- Source of the information (may be a supervisor who saw incident or someone else that reported it), including names of any other witnesses to the incident,
- Employee statement - a formal statement from the employee should be taken in the presence of union representation (when possible),
- Name of union representative (if applicable),

- Reason for verbal/written warning,
- If verbal warning is issue, a description in writing the verbal warning given to the employee,
- If a written warning is issued, a copy of the written warning must be provided to BCIB with the WRD form,
- If the conduct is repeated misconduct and/or the nature of the misconduct is such that a warning would not be appropriate, then provide recommendation for discipline (e.g. suspension including number of days or discharge),
- If non-disciplinary action is taken, details of what action was taken and what was communicated to employee by whom, and when,
- If the matter required further investigation by the Contractor or BCIB,
- If the matter is being referred to BCIB for discipline,
- If additional training is necessary to address the employee's conduct, a recommendation for training, and
- If Contractor determines the employee may have an addiction, substance abuse or disability affecting the employee's behavior, the Contractor should indicate the matter is being referred to BCIB for further investigation.

The WRD Form contains further guidance for the Contractor on what information and documents to provide to BCIB when completing the WRD Form.

5. FURTHER INQUIRIES OR QUESTIONS

Any questions related to the directions set out in this Policy should be directed to the BCIB Site Representative.

6. POLICY AMENDMENTS

BCIB reserves the right to amend this policy at any time and will publish revisions as promptly as possible.