

Potential strike by BNSF Railway workers over new attendance policy

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The World Socialist Web Site urges BNSF workers to contact us with your comments.

Workers for freight carrier BNSF Railway are deciding whether to strike in opposition to a new attendance policy that the company introduced unilaterally during ongoing national negotiations. The “Hi-Viz” attendance policy, which is scheduled to take effect on February 1, establishes a points-based system that can be used to penalize employees who take time off from work for almost any reason.

Many BNSF workers, who have stayed on the job during the pandemic, do not have predictable schedules or assigned days off. Besides increasing stress and overwork, these conditions make it practically impossible for workers to schedule necessary personal appointments or plan their leisure time.

Under these circumstances, the implementation of the points-based attendance policy would force many employees to report to work even if they are sick, thus promoting the spread of the Omicron variant of the coronavirus. It also would make it difficult for employees to avoid working while they are fatigued, which would in turn increase the risk of accidents.

BNSF argues that the new attendance policy is necessary to improve crew availability so that the company can remain competitive. Many companies such as Amazon, Walmart, Smithfield Foods and FedEx already use points-based attendance policies. Other railroads and terminal operators such as CSX Intermodal Terminals have adopted them, as well. Under these policies, workers are given points for each time they miss work, arrive late or leave early. After they receive a certain number of points, they are subject to discipline, including termination.

Companies routinely use these policies to punish workers for taking time off to which they are legally

entitled. For example, workers can receive points for taking paid sick time, pregnancy-related absences or time off as a reasonable accommodation. Workers also get points for absences protected by laws such as the Family and Medical Leave Act or the Americans with Disabilities Act (ADA). Companies that implement these policies often withhold information about workers’ rights to time off, or provide false or misleading information. When workers are not given set schedules, points-based attendance policies can be a sword of Damocles hanging over their heads.

BNSF, which operates the largest freight network in North America, has 32,500 miles of track in 28 states. In a filing to the U.S. Securities and Exchange Commission, the company reported that it had approximately 35,225 employees as of December 31, 2020. It reported a net income of \$5.2 billion for the same year. BNSF’s parent company is a subsidiary of Berkshire Hathaway, which is chaired by billionaire investor Warren Buffett. BNSF and its competitor the Union Pacific Railroad have a duopoly on transcontinental freight rail lines in the Western United States.

“There is going to be some blowback and some fallout from this new policy they put out,” said a BNSF conductor from Illinois in a video posted on YouTube. Although companies claim that such policies are for the workers’ benefit, they really are enacted for the company’s benefit, he said. “They’re already making millions and billions of dollars. Well, they want more.”

The worker emphasized that such attendance policies raise concerns about safety, citing the toll that unpredictable schedules and overwork take on mental and physical health. Not only BNSF, but other railroads are adopting these policies. “They’re just getting out of control, and nobody’s keeping the company in check,”

said the worker.

More than 17,000 BNSF workers—that is, nearly half of the company’s workforce—are members of the International Association of Sheet Metal, Air, Rail and Transportation union-Transportation Division (SMART-TD) or the Brotherhood of Locomotive Engineers and Trainmen (BLET). Under pressure from workers who oppose the new attendance policy, officials of the two unions wrote to SMART-TD President Jeremy Ferguson and BLET National President Dennis Pierce, who gave them permission to poll their members about a possible strike.

The Railway Labor Act (RLA), first passed in 1926, severely limits the disputes over which railway workers can strike and the circumstances under which a strike can be called. The law only allows strikes over “major” disputes, which it defines as those concerning the drafting or modification of the collective bargaining agreement between the parties. In a press release, Ferguson and Pierce claimed that the new attendance policy violates agreements that are currently in place, which would seem to qualify as grounds for a major dispute.

The RLA also requires unions to exhaust lengthy negotiation and mediation procedures before they may call a strike. Bargaining over major disputes is governed by what is known as the Section 6 process. SMART-TD officials claim that the introduction of the new attendance policy violates the Section 6 process, as well as other aspects of the RLA.

But the union bureaucrats are being compelled to float the possibility of a strike because of the scale of workers’ opposition to the new attendance policy. Like the other trade unions, SMART-TD and BLET have long since become agents of the companies. SMART-TD is a member union of the AFL-CIO, which has responded to the pandemic by suppressing workers’ struggles, sending them back to unsafe workplaces and propping up the Democratic Party. BLET is a division of the International Brotherhood of Teamsters, a thoroughly corrupt organization with connections to organized crime and the American state.

BNSF workers are in a powerful position. Because the company transports such a high volume of freight, a strike could cause a serious disruption in the supply chain. Should workers vote to strike, the union bureaucrats, whose six-figure salaries depend on their

services to management, will use every tactic possible to minimize the strike’s impact, isolate it and end it as quickly as possible. They will do everything in their power to reduce the tremendous leverage that these workers have.

In the event of a strike, BNSF workers also would face opposition from President Joe Biden. His oft-proclaimed support for the trade unions is based on his acknowledgment of these organizations’ value in controlling workers’ opposition. Given the supply-chain crisis that a BNSF strike could cause, Biden could invoke the Taft–Hartley Act or the RLA to force workers back to their jobs and guarantee the continued generation of profit.

BNSF workers cannot fight punitive attendance policies, irregular schedules or overwork while they remain trapped within the confines of the trade unions. To make real gains, they must break from SMART-TD and BLET and form rank-and-file committees. These committees, which must be independent of both capitalist political parties, will formulate demands democratically based on workers’ objective needs. Beyond the fulfillment of these needs, the goal of these committees must be to eliminate the source of workers’ exploitation: the capitalist system.



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