

SECTION 11 - DISCIPLINE, GRIEVANCES  
AND ARBITRATION

11-1 Power of promotions, and of demotions, discharge, suspension and other discipline, shall be vested in the Company, but the justification therefor may constitute a grievance to be adjusted as hereinafter provided. Any dispute arising out of the interpretation or application of this Agreement shall be subject to the grievance and arbitration procedures.

11-2 Discipline. In matters pertaining to an employee's performance, the employee shall be informed of any offense within six (6) days (excluding Saturdays and Sundays) after the Company has obtained all data necessary for proper consideration and treatment thereof, provided the employee is then working and presents himself or herself to his or her District Manager or Department Head as directed. If the employee is to receive a final warning before discipline or a suspension or a final warning before termination, the Union shall be informed of the hearing. If the Company gives such employee a final warning before discipline or a suspension or a final warning before termination, the Union and the employee involved shall receive copies of same. Nothing in the above shall prevent an employee from requesting a Union representative to be present when the employee is asked to appear before a supervisory official in connection with a violation of Company rules. Except for disciplinary matters warranting immediate suspension or discharge, no discipline or discharge shall be carried out until two (2) business days following the first disciplinary meeting.

11-2.1 Employee Having 20 or More Years of Service. When a full-time employee has been continuously in the service of the Company for at least twenty (20) years, he or she shall not be discharged, if he or she is physically and mentally able and capable of performing his or her duties, except for willful or flagrant or deliberate or frequent violation of rules or regulations of the Company, but may be otherwise disciplined as circumstances may in the opinion of the Company justify. If any dispute arises as to the physical or mental condition of such employee, and in the event that it cannot be adjusted by the parties, it may then be presented to an impartial physician to be selected by the Company's physician and a physician designated by the Union, under the procedure, terms and conditions set forth herein in Paragraphs 8-7.1 and 8-7.2. The decision of such impartial physician shall be conclusive and binding, and the expenses of such impartial physician shall be borne equally by the Company and the Union.

11-2.2 Incapacitated Employee. Where a full-time employee has become incapacitated from properly performing his or her usual duties, the Company will transfer him or her to such duties, in the same or other department or subdivision, which he or she is capable of performing, provided there is such a position available, and thereafter he or she shall be governed by the wages and working conditions prevailing in such department or subdivision to which he or she is so assigned.

11-3 Grievances. Any employee having a grievance shall, within seven (7) business days after the occurrence giving rise thereto comes to his or her attention,

discuss the same with his or her supervisory official having jurisdiction therein, as hereinafter defined, or with such supervisory official and the employee's Union representative. Any grievance which is not presented within the time limits specified in this Section shall not be considered. Such supervisory official, from the receipt of the grievance, shall have a determined amount of days, as hereinafter defined, to make a decision with respect to the grievance. If such decision is not received by the Union within the defined time limits, the Union Shall have the right to take the grievance to the next level of this grievance procedure.

All written responses to all steps of grievances will be supplied to the Union Office, Executive Board Member of said location, Steward of said location and to the grievant.

11-3.1(a) Bus Transportation Employees. With respect to bus operators, bus station clerks and traffic checker clerks, the grievance shall be presented first to the District Manager in writing. The District Manager or his or her designated representative shall have six (6) business days in which to make his or her decision. If the Union is not satisfied with his or her answer, it may present it to the Manager of Transportation. Such grievance will be considered only if presented in writing to the Manager of Transportation within ten (10) business days of the District Manager's decision. The Manager of Transportation or his or her designated representative shall have ten (10) business days in which to make his or her decision in writing. The decision of the Manager of Transportation or his or her designated representative shall be final.

11-3.1(b) Rail Transportation Employees, Train Operators, Rail Station Clerks and Metro Fare Inspectors. With respect to Train Operators and Rail Station Clerks and Metro Fare Inspectors, the grievance shall be presented first to his or her District Manager in writing. The District Manager or his or her designated representative shall have six (6) business days in which to make his or her decision. If the Union is not satisfied with his or her answer, it may be presented to the Rail Transportation Superintendent. Such grievance will be considered only if presented in writing to the Rail Transportation Superintendent within ten (10) business days of the District Manager's decision. The Rail Transportation Superintendent or his or her designated representative shall have ten (10) business days in which to make his or her decision in writing. The decision of the Rail Transportation Superintendent or his or her designated representative shall be final.

11-3.2 Maintenance Department - Garages. In the Maintenance Department at the Garages, the grievance shall first be presented to the Garage Supervisor. The Garage Supervisor or his or her designated representative shall have six (6) business days in which to make his or her decision. If the Union is not satisfied with the Garage Supervisor's answer, it may present it to the Superintendent, Bus Garage. Such grievance shall be considered only if it is presented to the Superintendent, Bus Garage in writing within six (6) business days of the Garage Supervisor's answer. The Superintendent, Bus Garage or his or her designated representative shall have six (6) business days in which to make his or her decision.

11-3.3 Maintenance Department - Shops. In the Maintenance Department at the bus shops, the grievance shall first be presented in writing to the Superintendent, Bus Shops. The Superintendent, Bus Shops or his or her designated representative shall have six (6) business days in which to make his or her decision.

In the Maintenance Department at the rail shops, under the supervision of the Superintendent, Rail Car Maintenance, the grievance shall first be presented in writing to the Superintendent, Rail Car Maintenance. The Superintendent, Rail Car Maintenance or his or her designated representative shall have six (6) business days in which to make his or her decision.

In the Maintenance Department at the rail shops, under the supervision of the Superintendent, Rail Systems/Facilities Maintenance, the grievance shall first be presented in writing to the Superintendent, Rail Systems/Facilities Maintenance. The Superintendent, Rail Systems/Facilities Maintenance or his or her designated representative shall have six (6) business days in which to make his or her decision.

11-3.4 Maintenance Department - Porters. For Rail Station Porters the grievance shall be presented first to the porter's Supervisor in writing. The Supervisor or his or her designated representative shall have six (6) business days in which to make his or her decision. If the Union is not satisfied with his or her answer, it may be presented to the Manager of Maintenance. Such grievance will be considered only if presented in writing to the Manager of Maintenance within ten (10) business days of the Supervisor's decision. The Manager of Maintenance or his or her designated representative shall have ten (10) business days in which to make his or her decision in writing. The decision of the Manager of Maintenance or his or her designated representative shall be final.

11-3.5 Presentation to Manager of Maintenance. If the Union is not satisfied with the answer of the Superintendent, Bus Garage or Superintendent, Bus Shops or the Superintendent, Rail Car Maintenance or the Superintendent Rail Systems/Facilities Maintenance, whichever be applicable, it may present it to the Manager of Maintenance. Such grievance will only be considered if presented to the Manager of Maintenance in writing within ten (10) business days of the decision of the Superintendent, Bus Garage or Superintendent, Bus Shops or the Superintendent, Rail Car Maintenance or the Superintendent Rail Systems/Facilities Maintenance, whichever be applicable. The Manager of Maintenance or his or her designated representative shall have ten (10) business days in which to make his or her decision, in writing. The decision of the Manager of Maintenance or his or her designated representative shall be final.

11-3.6 Office and Clerical Departments. In subdivisions to which Office and Clerical employees are assigned, the grievance shall be presented first to the Chief Clerk or head of the group or division of the employee involved. Such supervisory official or his or her designated representative shall have six (6) business days in which to make his or her decision. If the Union is not satisfied with the decision of the Chief Clerk or head of the group or subdivision, it may present it to the employee's Department Head. Such grievance will be considered only if it is presented to the Department Head in writing

within ten (10) business days of the Supervisor's decision. The Department Head or his or her designated representative shall have ten (10) business days in which to make his or her decision in writing. The decision of the Department Head or his or her designated representative will be final.

11-3.7 Procedure for Discussion. Such grievances, as above provided, shall be presented immediately after the end of the employee's trick of duty, but if that is inconvenient to such Supervisory official for any reason, and the grievance is of sufficient importance, an appointment may be made for a convenient time.

If such grievance concerns an employee in a department other than the Bus and Rail Transportation Departments, or the Rail Ticket Inspection Department and is so discussed pursuant to such an appointment at a time when such employee or his or her Union representative would have been working for the Company, then the Company shall pay them at the regular hourly rates for the time actually lost from work because of such discussion, but not to exceed thirty (30) minutes, but otherwise the Company shall not be obligated to pay or reimburse an employee or his or her Union representative for any time lost in connection with any such grievance. The parties agree that the grievances or discussion of them shall not be used as to unduly impair productive effort.

11-3.8 Discharge Grievances. Where the grievance concerns the discharge of an employee, the Union may request the Director of Surface Transportation of the Company to meet with the Union representative and the employee to discuss and review the final decision of the employee's department head. This review by the Director of Surface Transportation shall not affect the time limits for requesting arbitration as stated in 11-4.

11-3.9 Waiver of Back Pay. If any employee is discharged, suspended or otherwise disciplined, and thereafter in the final adjustment of such grievance it is determined that such discipline was not justified, the employee shall be reimbursed by the Company at his or her regular hourly rates for the actual time lost by reason of such discipline, provided however, that where the parties hereto or their arbitrators mutually agree to waive back pay, such waiver shall be permanently binding on all concerned.

11-3.10 Questioning of Inspector by International Representatives. In any grievance involving discipline in connection with inspection or registration of fares, arising by reason of the report of any "checker" or inspector involved, such "checker" or inspector shall not be questioned by or in the presence of the employee involved or any other employee of the Company (except supervisory officials to be designated by the Company), but said "checker" or inspector may be presented before and questioned in behalf of the Union only by International representatives of the Amalgamated Transit Union, and they shall preserve the identity and description of any such "checker" or inspector in honorable secrecy. Any such questioning by said International representatives shall be within seven (7) days after the employee involved has been notified of his offense.

11-3.11 Company Grievances. The Company also shall present to an officer or representative of the Union designated by it any grievance of the Company pertaining to any matter concerning any employee, or any act or omission of the Union, and if such grievance is not satisfactorily adjusted between them, it shall at the request of either party be reduced to writing by the Company and served on the Union and the answer of the Union shall then be reduced to writing by the Union and served on the Company.

11-4 Arbitration. In the event that any aforesaid grievance has not been satisfactorily settled by any of the foregoing procedures, it may be referred to a board of arbitrators provided notice of its intention to do so is given by either party to the other within forty (40) business days following the decision which results in disagreement. The Board shall be composed of one representative selected by the Company, one selected by the Union, and a third impartial member selected by the first two members, who shall serve as Chairman of the Board of Arbitration. If the parties have not timely concluded a new agreement, it is agreed that the grievance and arbitration procedures of this Section 11 shall continue in effect after the expiration date of this Agreement provided that this procedure shall not apply to grievances arising during a strike of employees who participate in a strike in violation of New York State Law.

11-4.1 Failure to Appoint Arbitrator. In the event that either party fails to appoint its arbitrator after written notice from the other to do so, within the time specified by such notice, which shall not be less than six (6) business days there after, then the party so failing to appoint such arbitrator shall automatically be deemed to have abandoned its contentions in reference to such grievance.

11-4.2 Failure to Select Third Member of Arbitration Board. In the event that the parties are unable to select a third impartial member within six (6) business days after the first meeting for the purpose of selecting such impartial member, then the party presenting such grievance may request the department or bureau of the United States which is then authorized by statute of the United States to do so, to appoint such impartial arbitrator, and if such party fails to make such request to such department or bureau within such six (6) business days, it shall automatically be deemed to have abandoned its contention in reference to such grievance.

11-4.3 Final and Binding Decision. A decision reached by any two of the members of the Board shall be final and binding on both parties to this Agreement. The Company shall pay any expenses involved for the member selected by the Company, and the Union shall pay any expenses involved for the member selected by the Union, and the cost of the third member shall be paid equally by the Company and the Union.